
ILLINOIS

REGISTER



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INTRODUCTION

The Illinois Register is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State Statute; and activities (meeting agendas; Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State Agencies; is also published in the Register.

The Register is a weekly update of the Illinois Administrative Code (a compilation of the rules adopted by State agencies). The most recent edition of the Code, along with the Register, comprise the most current accounting of State agencies' rulemakings.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1, et seq.].

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2012

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 27, 2011	January 6, 2012
2	January 3, 2012	January 13, 2012
3	January 9, 2012	January 20, 2012
4	January 17, 2012	January 27, 2012
5	January 23, 2012	February 3, 2012
6	January 30, 2012	February 10, 2012
7	February 6, 2012	February 17, 2012
8	February 14, 2012	February 24, 2012
9	February 21, 2012	March 2, 2012
10	February 27, 2012	March 9, 2012
11	March 5, 2012	March 16, 2012
12	March 12, 2012	March 23, 2012
13	March 19, 2012	March 30, 2012
14	March 26, 2012	April 6, 2012
15	April 2, 2012	April 13, 2012
16	April 9, 2012	April 20, 2012
17	April 16, 2012	April 27, 2012
18	April 23, 2012	May 4, 2012
19	April 30, 2012	May 11, 2012

20	May 7, 2012	May 18, 2012
21	May 14, 2012	May 25, 2012
22	May 21, 2012	June 1, 2012
23	May 29, 2012	June 8, 2012
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27	June 25, 2012	July 6, 2012
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35	August 20, 2012	August 31, 2012
36	August 27, 2012	September 7, 2012
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47	November 13, 2012	November 26, 2012
48	November 19, 2012	November 30, 2012
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50	December 3, 2012	December 14, 2012
51	December 10, 2012	December 21, 2012
52	December 17, 2012	December 28, 2012

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Grow Your Own Teacher Grants
- 2) Code Citation: 23 Ill. Adm. Code 1085
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1085.10	New
1085.20	New
1085.25	New
1085.30	New
1085.40	New
1085.50	New
1085.60	New
1085.70	New
1085.80	New
1085.90	New
1085.100	New
1085.110	New
1085.120	New
- 4) Statutory Authority: 110 ILCS 48/13
- 5) A Complete Description of the Subjects and Issues Involved: This Part provides for the administration of the Grow Your Own (GYO) Teacher Grants. Pursuant to Public Act 96-1393, this program was transferred from the Illinois State Board of Education (ISBE) to the Illinois Board of Higher Education (IBHE) in July 2010. The legislation authorized IBHE to administer the program under the existing ISBE rules until new rules could be promulgated.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No

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- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

Karen Helland, Administrative Rules Coordinator
Illinois Board of Higher Education
431 East Adams Street, 2nd Floor
Springfield, Illinois 62701

Telephone: 217/557-7358
E-Mail: helland@ibhe.org
Facsimile: 217/782-8548

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: The 12/31/11 Regulatory Agenda indicated the intent of the Board to adopt a new Part for Grow Your Own Teacher Grants.

The full Text of the Proposed Rules begins on the next page:

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED RULES

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER II: BOARD OF HIGHER EDUCATION

PART 1085

GROW YOUR OWN TEACHER GRANTS

Section

1085.10	Purpose
1085.20	Definitions
1085.25	Roles and Responsibilities
1085.30	Eligibility
1085.40	Grant Applications
1085.50	Planning Grant
1085.60	Implementation Grant
1085.70	Continuation Grant
1085.80	Candidates
1085.90	Forgivable Loan Program
1085.100	Grant Agreement
1085.110	Audit Guidelines
1085.120	Grant Funds Recovery Act

AUTHORITY: Implementing and authorized by Section 13 of the Grow Your Own Teacher Education Act [110 ILCS 48/13] and by Section 9.17 of the Board of Higher Education Act [110 ILCS 205/9.17].

SOURCE: Adopted at 36 Ill. Reg. _____, effective _____.

Section 1085.10 Purpose

The purpose of this Part is to provide for the distribution of grant funds through a competitive process *to prepare highly skilled, committed teachers who will teach in hard-to-staff schools, including within the Department of Juvenile Justice School District, and hard-to-staff teaching positions and who will remain in these schools for substantial periods of time. The initiative shall ensure educational rigor by effectively preparing candidates in accredited bachelor's degree programs in teaching, through which graduates shall meet the requirements to secure an Illinois initial teaching certificate.* (Section 5 of the Act)

Section 1085.20 Definitions

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"Accredited teacher preparation program" means, for the purposes of this Part, a regionally accredited, Illinois approved teacher education program authorized to prepare individuals to fulfill all of the requirements to receive an Illinois initial teaching certificate (Section 10 of the Act).

"Act" means the Grow Your Own Teacher Education Act [110 ILCS 48].

"Board" means the Board of Higher Education (Section 10 of the Act).

"Candidate" means a person who is eligible to receive or is receiving assistance through a program offered by a consortium. *A candidate must hold a high school diploma or its equivalent, must meet either the definition of "parent and community leader" or the definition of "paraeducator", must not have attended college right after high school or must have experienced an interruption in his or her college education, and does not hold a bachelor's degree (Section 20 of the Act).*

"Paraeducator" means an individual with a history of demonstrated accomplishments in school staff positions (such as teacher assistants, school-community liaisons, school clerks, and security aides) in schools that meet the definition of a hard-to-staff school (Section 10 of the Act).

"Parent and community leader" means an individual who has or had a child enrolled in a school or schools that meet the definition of a hard-to-staff school under the definition of "eligible school" and who has a history of active involvement in the school or who has a history of working to improve schools serving a substantial percentage of low-income students, including membership in a community organization (Section 10 of the Act).

"Student with a non-traditional background" means a student who does not hold a bachelor's degree and who begins a baccalaureate program at a point in time other than immediately following graduation from high school or one who began a baccalaureate program after high school, did not complete it, and re-enters a baccalaureate program after some passage of time.

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"Cohort" means a group of teacher education candidates who are enrolled in and share experiences in the same program and are linked by their desire to become Illinois teachers in hard-to-staff schools and by their need for the services and supports offered by the Initiative (Section 10 of the Act).

"Community organization" means a nonprofit organization that has a demonstrated capacity to train, develop, and organize parents and community leaders into a constituency that will hold the school and the school district accountable for achieving high academic standards; in addition to organizations with a geographic focus, "community organization" includes general parent organizations, organizations of special education or bilingual education parents, and school employee unions (Section 10 of the Act).

"Consortium" means, for the purposes of this Part, an association of entities pooling their resources to offer a program. A consortium shall be composed of at least one 4-year institution of higher education with an Illinois accredited teacher education program, at least one school district or group of schools, and one or more community organizations. The consortium may also include a 2-year institution of higher education, a school employee union, or a regional office of education. (Section 20 of the Act)

"Continuation grant" means an award of grant funds to a consortium for a program if an implementation grant or a continuation grant was awarded in the prior fiscal year pursuant to this Part and all requirements of the prior grant agreement were met.

"Counsel out" means a systematic approach to identify a candidate who may be struggling in the program, and to determine if the candidate is performing at an acceptable level to continue without intervention or if the candidate should discontinue the program.

"Developmental classes" means classes in basic skill areas, such as mathematics and language arts, that are prerequisite to, but not counted towards, degree requirements of a teacher preparation program (Section 10 of the Act).

"DFPR" means the Illinois Department of Financial and Professional Regulation or its successor.

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"Eligible school" means a public elementary, middle, or secondary school in this State that serves a substantial percentage of low-income students and that is either hard-to-staff or has hard-to-staff teaching positions (Section 10 of the Act).

"Hard-to-staff school" means a public elementary, middle, or secondary school in this State that, based on data compiled by the State Board of Education in conjunction with the Board of Higher Education, serves a substantial percentage of low-income students, as defined by the State Board (Section 10 of the Act).

"Hard-to-staff teaching position" means a teaching category (such as special education, bilingual education, mathematics, or science) in which statewide data compiled by the State Board of Education in conjunction with the Board of Higher Education indicates a multi-year pattern of substantial teacher shortage or that has been identified as a critical need by the local school board (Section 10 of the Act).

"Schools serving a substantial percentage of low-income students" means schools that maintain any of grades pre-kindergarten through 8, in which at least 35% of the students are eligible to receive free or reduced-price lunches, and schools that maintain any of grades 9 through 12, in which at least 25% of the students are eligible to receive free or reduced price lunches (Section 10 of the Act).

"Fiscal agent" means the Illinois public institution pursuant to the Board of Higher Education Act [110 ILCS 205] or a private not-for-profit institution authorized to operate within the State of Illinois pursuant to the Private College Act [110 ILCS 1005] and/or the Academic Degree Act [110 ILCS 1010]; or has been in continuous operation and granted degrees within the State of Illinois before the effective date of those Acts and has not modified the business entity since the effective dates of those Acts. This definition does not apply to consortia established before 2010.

"Initiative" means the Grow Your Own Teacher Education Initiative created under the Act (Section 10 of the Act).

"Institution" means an institution of higher education.

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"Implementation grant" means an award of grant funds to a consortium for a program only if a planning grant was received in the prior fiscal year pursuant to this Part. This award may also be available to a consortium in which the composition of the membership has changed.

"Planning grant" means a one-time award of grant funds to a potential consortium that will enable the group to work with the Board to organize, coordinate and submit an application for an implementation grant.

"Potential consortium" means a consortium that has not received a planning grant pursuant to this Part.

"Program" means a Grow Your Own Teacher preparation program established by a consortium under the Act (Section 10 of the Act).

"Year of service" means, for the purposes of this Part, full-time employment for at least half a school year, or an equivalent amount of part-time employment, in:

A public school that, at the time the individual becomes employed, is either one of the schools targeted by the program completed by the individual with assistance under this Part or another school that is hard to staff; or

A teaching position that, at the time the individual becomes employed, is a hard-to-staff teaching position.

Section 1085.25 Roles and Responsibilities

- a) The Board of Higher Education is responsible for administration of the Grow Your Own (GYO) Initiative. Responsibilities include, but are not limited to, developing and releasing applications, fiscal monitoring, maintaining a candidate database system, development and review of contracts to support the initiative, reviewing of consortia annual reports and consultant reports, coordination and communication of expectations to all consortia members, and developing and appointing an advisory board with members representative of all consortia.
- b) The consortium is responsible for pooling all its collective resources and providing a variety of support services to increase the success rate of candidates

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graduating from an Illinois accredited teacher education program to become and to be placed as teachers in hard-to-staff schools.

- c) The fiscal agent is responsible for providing direction and oversight for the consortium. Responsibilities include, but are not limited to, submitting grant applications and annual reports, meeting with program evaluators, monitoring grant expenditures and the budget, serving as liaison and primary contact person for the consortium, participating in cohort meetings, locating and hiring tutors, conducting meetings with academic counselors, collecting and reporting assessment and performance data, and attending consortium meetings.
- d) A cohort coordinator is responsible for direct support and counseling to candidates. Responsibilities include, but are not limited to, assisting students with class schedules, helping candidates register and answer questions about registration, answering questions about teacher education programs and entrance requirements, helping candidates solve individual problems related to their classes, basic skills tests and other college requirements, conducting cohort meetings, conducting meetings with academic counselors, meeting with program evaluators, coordinating tutorial support, monitoring academic progress of candidates, assisting the consortium with providing information regarding candidates, anticipated completion dates in regards to placement where positions may be available, and attending consortium meetings.
- e) The community based organization has unique responsibilities to support the success of the candidates. Responsibilities include, but are not limited to, helping improve the life outcomes of disadvantaged children and families, increasing parental involvement in schools, developing parent and candidate leadership and addressing commonly identified issues related to the school, carrying out community-school improvement activities, assisting in developing after school programs, applying for grants to support the consortium, meeting with program evaluators, identifying unique needs of candidates and providing support for those needs, working with higher education partners to locate and hire tutors to help candidates with coursework, and attending consortium meetings.
- f) An independent program evaluator is responsible for reporting the extent of candidate persistence in program enrollment, acceptance as an education major in a 4 year institution of higher education, completion of a bachelor's degree in teaching, obtaining a teaching position in a target school or similar school, subsequent effectiveness as a teacher, and persistence in teaching in a target

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school or similar school. The evaluation shall assess the Initiative's overall effectiveness and shall identify particular program strategies that are especially effective (Section 35 of the Act). The evaluation process will include monitoring site visits, providing technical assistance to consortia, and providing other support services to the Board as needed. The evaluator will produce an annual report that includes individual project and overall program data, identification of effective practices, and recommendations for program improvements.

- g) An accredited Illinois teacher preparation program, housed within an Illinois institution of higher education, is responsible for providing high quality undergraduate coursework and clinical experiences that will prepare beginning teachers to work in hard-to-staff schools. The programs offered will align with the areas of need derived from the GYO consortium's needs assessment of the community's K-12 schools.
- h) The hard-to-staff schools (elementary, middle and high school) are responsible for providing data (needs assessment) to the consortium on those areas that experience a multi-year pattern of substantial teacher shortage or have been identified as a critical need by the local school board, providing sites for clinical experiences for GYO participants/candidates and providing employment opportunities for GYO graduates when possible.

Section 1085.30 Eligibility

- a) A potential consortium, as defined in Section 1085.20, shall be eligible to apply for a planning grant.
- b) A consortium, as defined in Section 1085.20, shall be eligible to apply for an implementation grant or a continuation grant.

Section 1085.40 Grant Applications

The Board will release applications for planning, implementation and continuation grants when sufficient funding is made available to the Board during any given fiscal year and the Board determines a need for grants. Each release will include information about the application requirements, the categories of allowable expenditures, the information required, and such certifications, assurances and program-specific terms of the grant required by the Board. Applications will be signed by each member of the potential consortium or consortium.

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- a) Applications for grant funds shall be made on prescribed forms developed by the Board and shall include, but not be limited to, the following provisions and information:
 - 1) The names, addresses, chief officers and general description of each member of the potential consortium;
 - 2) Name and contact information of the fiscal agent, as defined in Section 1085.20; and
 - 3) Certification that the grant funds will be used for planning activities pursuant to Section 1085.50, implementing a program pursuant to Section 1085.60, or continuing a program pursuant to Section 1085.70.
- b) Applications shall also include additional information and documentation as specified by the type of grant:
 - 1) Planning grant requirements in Section 1085.50;
 - 2) Implementation grant requirements in Section 1085.60; or
 - 3) Continuation grant requirements in Section 1085.70.
- c) Grant applications may be obtained from the Illinois Board of Higher Education, 431 East Adams Street, Second Floor, Springfield, Illinois 62701-1404 or the Board's website at www.ibhe.org.
- d) Completed applications must be submitted to the Board at the address indicated in subsection (c) and must be received by the announced deadline for the submission of applications, which shall not be less than 45 days after the announcement and release of application materials. Completed applications will not be accepted after the announced deadline for the submission of applications within any fiscal year.
- e) Board staff shall review application documents for compliance with the application and eligibility requirements. The Board may request additional documentation and/or a meeting between its staff and institutional representatives to resolve questions about application documents. In the event that material submitted by an applicant institution is incomplete or not of sufficient detail to

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provide an understanding of the proposed projects, the Board will request additional information.

- f) After the review is complete, the Board shall provide written notification to an applicant indicating whether the applicant is eligible to receive a grant award.

Section 1085.50 Planning Grant

The Board may, if it chooses, award a small number of planning grants during any fiscal year to potential consortia (Section 30 of the Act). The Board shall indicate the maximum amount to be reserved for planning grants and the maximum amount available per grant.

- a) In addition to the application requirements of Section 1085.30, the application for a planning grant must include the following:
 - 1) Proposal
 - A) Describes a plan of work for developing a consortium and a Grow Your Own program that will be eligible for an implementation grant under this Part;
 - B) Provides evidence that at least a subset of the teachers typically prepared by the institution seeks employment in communities where hard-to-staff schools are located;
 - C) Demonstrates that the institution is not applying for funding on behalf of an existing consortium that is currently serving a group of candidates under a model substantially similar to that described in the Act and that further information is needed about the specific barriers that exist with respect to enabling individuals with a long-term commitment to those communities to complete teacher preparation; and
 - D) Demonstrates need by a hard-to-staff K-12 district for teachers in hard-to-staff positions.
 - 2) Supporting Documentation

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- A) Letters of interest from one or more school districts or schools indicating willingness to collaborate in offering opportunities for candidates in the program to complete pre-student teaching clinical experiences in hard-to-staff schools or positions; and
 - B) If additional community organizations are being considered for membership in the consortium, letters of invitation that the applicant has sent to one or more relevant community organizations proposing a role for the organizations in the proposed consortium, along with a rationale provided by the applicant for inclusion of these organizations.
- 3) The Board shall provide the categories of allowable expenditures and require the submission of a budget summary and payment schedule, completed on the forms provided, as well as a narrative budget breakdown that provides a detailed explanation of each line item of expenditure. Allowable uses of planning grant funds shall include services and goods necessary to:
- A) Secure the participation and commitment of the required members and the optional members of a consortium to develop a plan for collective decision-making that involves all partners and provides a mechanism for candidate input;
 - B) Attract or identify viable potential candidates for teacher preparation who are paraeducators or parent and community leaders as contemplated by the Act, including assistance that will permit potential candidates to complete developmental coursework during their first four semesters of participation that will verify their academic readiness for enrolling in teacher preparation; and
 - C) Identify barriers to teacher certification for potential members of a given cohort, and the strategies and resources for mitigating those barriers and successfully ameliorating them within the programmatic, time and funding constraints of the program.
- b) *In awarding grants, the Board shall select programs that successfully address initiative criteria and that reflect a diversity of strategies in terms of serving urban, suburban, and rural areas, the nature of the participating institutions of*

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higher education, and the nature of hard-to-staff schools and hard-to-staff teaching positions on which a program is focused (Section 20 of the Act).

- c) Each proposal that is submitted by a potential consortium and meets the requirements of this Section shall be considered qualified for funding.
- d) Funding decisions shall be made by balancing the goals of geographic distribution and accessibility with the level of need and the potential number of candidates to be served.
- e) In the event that an audit or other evidence establishes that the consortium failed to perform and/or the expenditure of grant funds was not consistent with the consortium's proposal, a full or partial reimbursement to the State shall be required.

Section 1085.60 Implementation Grant

New implementation grants shall be offered in years when the level of available funding allows one or more new programs or cohorts of candidates to be supported, given the requirements of Section 25 of the Act for ongoing support of cohorts that have begun their preparation in previous years. The Board shall indicate the maximum amount to be reserved for implementation grants and the maximum available amount per grant.

- a) In addition to the application requirements of Section 1085.30, the application for an implementation grant must include the following:
 - 1) The responsibility and roles of each partner in the consortium shall be set forth in a written agreement signed by each partner to be submitted with the application. The written agreement shall address at least the following:
 - A) The process and responsibilities of each partner for the recruitment, selection and assessment of candidates;
 - B) The establishment of support systems and the specific roles of each partner in providing those supports. This may include, but shall not be limited to, tutoring, peer mentoring, professional development workshops and placement supports; and

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- C) The process to develop an evaluation plan to measure the progress and success of individual candidates, as well as an evaluation of the partnership, and the role of each partner in making improvements based on the results of the evaluations.
- 2) Information on the consortium participants, service targets and candidates.
- A) The teacher preparation programs involved and their qualifications relevant to the requirements of the Act, including specific information on the institution's success in preparing teachers for positions in schools that serve a substantial percentage of low-income students;
 - B) The hard-to-staff schools and positions that are targeted;
 - C) The demographic make-up of the area served by the targeted schools;
 - D) Plans for recruiting candidates to the program;
 - E) Selection criteria and process for admitting candidates into the program;
 - F) Evidence that the candidates of the cohort are paraeducators or parent and community leaders;
 - G) Plans for providing support to the candidates;
 - H) Plans for ensuring each candidate successfully progresses through the program. These plans will include strategies such as tutoring, study skills training, and other strategies to ensure candidates pass the basic skills test because *a student may not enroll in a teacher preparation program at a recognized teacher training institution until he or she has passed the basic skills test* [105 ILCS 5/21-1a];
 - I) Preparation status of existing candidates, if a cohort is already engaged in the program;

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- J) Procedures to use when a candidate fails to make an adequate rate of progress as specified in Section 1085.80(b), and the candidate is counseled out of the program;
 - K) A plan for contingency funding if State funding is discontinued or diminished; and
 - L) Procedures for placement supports for candidates, including identified roles and responsibilities of the consortium members in assisting with placement.
- 3) The Board shall provide the categories of allowable expenditures pursuant to the Act and require the submission of a budget summary and payment schedule, completed on the forms provided, as well as a narrative budget breakdown that provides a detailed explanation of each line item of expenditure and covers the entire period of time during which the identified cohort is expected to be enrolled in the teacher preparation program.
- A) *Where necessary, program budgets shall include the costs of child care and other indirect expenses, such as transportation, tutoring, technology, and technology support, necessary to permit candidates to maintain their class schedules. Grant funds may be used by any member of a consortium to offset such costs, and the services may be provided by the community organization or organizations, by any other member of the consortium, or by independent contractors. (Section 25(d) of the Act)*
 - B) *Grant funds may also be expended to pay directly for required developmental classes for candidates beginning a program. (Section 25(i) of the Act)*
 - C) *The community organization or organizations may receive a portion of the grant money for the expenses of recruitment, community orientation, and counseling of potential candidates, for providing space in the community, and for working with school personnel to facilitate individual work experiences and support of candidates. (Section 25(f) of the Act)*

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- D) *The school district or school employee union or both may receive a portion of the grant money for expenses of supporting the work experiences of candidates and providing mentors for graduates. Notwithstanding the provisions of Section 10-20.15 of the School Code, school districts may also use these or other applicable public funds to pay participants in programs under the initiative for student teaching required by an accredited teacher preparation program. (Section 25(g) of the Act)*
- E) *One or more members of the consortium may expend funds to cover the salary of a site based cohort coordinator. (Section 25(h) of the Act)*
- F) *No funds under the initiative may be used to supplant the average per-capita expenditures by the institution of higher education for candidates. The institution of higher education may expend grant funds to cover the additional costs of offering classes in community settings and for tutoring services. (Section 25(c) and (e) of the Act)*
- G) A consortium shall implement a program of forgivable loans to cover any portion of tuition, books and fees charged of students preparing for teaching certificates in excess of grants-in-aid received.
- H) Applicants shall be required to describe the steps that will be taken to decrease the need for GYO State funds for the consortium and its program over time.
- b) Proposals for implementation grants shall be evaluated in accordance with the following criteria:
- 1) Feasibility, Impact and Cost-Effectiveness
 - A) The proposal identifies a need for teachers in hard-to-staff schools and hard-to-fill positions and describes either a cohort that is available to enroll in the identified preparation program or time-specific plans for identifying and attracting the members of such a cohort;

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- B) The proposal describes strategies that will be used to reach members of underrepresented groups that reflect the diversity of the students enrolled in the participating schools and outlines plans for serving additional cohorts in future years;
- C) The proposal demonstrates that:
 - i) Coursework and experiences required for certification will be scheduled and located to be accessible to members of the cohort; and
 - ii) Supportive services (e.g., child care, counseling, tutoring) that have been identified as necessary will be offered to enable candidates to progress through the program and attain certification;
- D) The proposal establishes a timetable and performance level for candidates as a condition for their continued receipt of assistance under this program;
- E) The plan to evaluate the program by members of the consortium is designed to yield information that can be used both in judging the program's qualitative and quantitative impact and in identifying changes or new approaches that will improve the program's outcomes;
- F) The proposal describes commitments and dedications of monetary and in-kind resources of each member of the consortium that will enable the consortium to sustain the program over time with a reduction in the need for GYO State funds;
- G) The budget clearly describes the proposed use of grant funds as allowable, reasonable and cost-effective; and
- H) The plan for recruiting and screening potential candidates will ensure that those individuals admitted will have a high likelihood of successfully completing the program in a reasonable length of time.

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- 2) Quality of the Plan
- A) The proposal describes the role of each entity that is a member of the consortium, including the resources each entity will devote to this initiative, the major areas requiring collaboration among the members, and how decisions will be made with input from the members and the participants;
 - B) The proposal includes plans for assisting candidates in tapping sources of financial aid beyond those made available under this Part and by the members of the consortium;
 - C) The proposal demonstrates that the institution of higher education has the capacity (i.e., faculty and other resources) to serve the cohort in its approved teacher preparation program. If a two-year institution is involved in the consortium, the proposal delineates how coursework, other requirements, and services will be coordinated between the institutions;
 - D) The proposal describes the needs of the participating schools and demonstrates that the consortium's plan for certification under the program is relevant to those needs and will have an impact on the availability of qualified staff;
 - E) The plan of work for the program includes specific strategies for overcoming known barriers faced by the participating schools in retaining qualified teachers and for addressing and overcoming the barriers faced by the individuals who make up the cohort to be enrolled in the program; and
 - F) The proposal describes the consortium's plans for extending support to candidates for at least their first 2 years of teaching. This includes such activities and services as mentoring (if the district does not already offer a teacher mentoring program) and group meetings of the cohort. If the district offers a teacher mentoring program, the consortium should work with the existing district mentoring program to provide mentoring support to the new teacher.

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- 3) Experience and Qualifications
 - A) The proposal provides evidence that faculty and relevant staff of the institution are knowledgeable regarding the needs of hard-to-staff schools and the specific issues that candidates from non-traditional backgrounds encounter when attempting to complete preparation for teaching careers;
 - B) The proposal demonstrates that the community organization that is a member of the consortium has a record of success in conducting projects or initiatives with a specific focus on involving parents and others in school improvement, either in the participating schools or schools with similar characteristics, and has the capacity (including staff and other resources) to recruit candidates for and support them as they progress through the program; and
 - C) The individual who is identified as coordinator for the cohort has experience in education and/or community organizing and in supporting individuals in the collegiate environment and is knowledgeable about group dynamics, support services and cultural issues relevant to the cohort.
- 4) Evaluation Plans
 - A) The proposal relates plans for the evaluation of candidates' teaching skills to the relevant portions of the institution's educational unit assessment system (see 23 Ill. Adm. Code 25.140) and demonstrates that candidates in the program will be expected to meet the standards applicable to the approved program; and
 - B) The proposal includes a plan for the evaluation of the program by the members of the consortium that will provide:
 - i) Information on the progress of candidates within the preparation program; and
 - ii) When applicable, information on this initiative's outcomes in terms of candidates' placement into hard-to-staff

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teaching positions or hard-to-staff schools and their retention in those positions.

- c) *In awarding grants, the Board shall select programs that successfully address initiative criteria and that reflect a diversity of strategies in terms of serving urban, suburban, and rural areas, the nature of the participating institutions of higher education, and the nature of hard-to-staff schools and hard-to-staff teaching positions on which a program is focused.* (Section 20 of the Act)
- d) The Board shall approve proposals for funding and make final determinations regarding the amounts to be provided based upon:
 - 1) The total funds appropriated for this initiative;
 - 2) The needs and resources described and the amounts requested in the top-ranked proposals identified in accordance with the criteria set forth in subsection (b); and
 - 3) The need to make programs under this Part accessible on a geographic basis in a manner that will increase the availability of candidates to serve in hard-to-staff schools and positions in all areas of the State.
- e) In the event that an audit or other evidence establishes that the consortium failed to perform and/or the expenditure of grant funds was not consistent with the consortium's proposal, a full or partial reimbursement to the State shall be required.

Section 1085.70 Continuation Grant

- a) A consortium that has received an implementation grant award or a continuation grant pursuant to this Part for a cohort of candidates in the prior fiscal year shall be subject to the requirements of this Section with respect to continued funding for that cohort in subsequent years.
 - 1) The responsibility and roles of each partner in the consortium shall be set forth in a written agreement signed by each partner to be submitted with the application annually. The written agreement shall address at the least the following:

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- A) The process and responsibilities of each partner for the recruitment, selection and assessment of candidates;
 - B) The establishment of support systems and the specific roles of each partner in providing those supports. This may include, but shall not be limited to, tutoring, peer mentoring, professional development workshops, etc.; and
 - C) The process to develop an evaluation plan to measure the progress and success of individual candidates, as well as an evaluation of the partnership, and the role of each partner in making improvements based on the results of the evaluations.
- 2) In addition to the application requirements of Section 1085.40, the application for a continuation grant must include the following:
- A) An end-of-year report from the project director on the following:
 - i) Current status of the program and the status of each cohort member;
 - ii) The activities and support provided to date, including monetary and in-kind; and
 - iii) The degree to which candidates are achieving the program's objectives.
 - B) An updated proposal including:
 - i) Objectives, activities, timelines and evaluation procedures for the renewal year, showing that it continues to meet all of the requirements set forth in Section 1085.60;
 - ii) Results/outcomes that have been achieved to date; and
 - iii) The relationship of results to any changes proposed for program operations from the previous year.
 - C) An updated budget including:

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- i) Budget summary;
 - ii) Payment schedule; and
 - ii) Narrative budget breakdown that describes any needed variances from the budget proposed in the prior year of funding.
- b) When the consortium membership has changed or there is a plan in place to replace one or more of the partners, the consortium must contact the Board prior to submitting an application for a continuation grant. The consortium must submit written notification of the membership change. The Board will prescribe the form or format when releasing the Request for Proposals (RFP). The Executive Director of the Board shall review the notifications consistent with the following:
 - 1) If the 4-year institution of higher education with an Illinois accredited teacher education program is replaced or the school district or group of schools is replaced, the consortium is not eligible for a continuation grant. The newly formed consortium may be eligible for a planning or implementation grant and may be eligible for continuation grants in the years following the receipt of a planning or implementation grant.
 - 2) If the partners want to add a school district or group of schools to the consortium, the Executive Director shall consider whether this change is viable and what impact this will have on the candidates. If the re-organization appears viable and there is no apparent risk that this change will interfere with the progression of candidates through the program, the Executive Director shall recognize the re-organized consortium. The re-organized consortium may be eligible for a continuation grant.
 - 3) A consortium may replace or add community organizations as it deems appropriate. If there is no apparent risk that the re-organization will interfere with the progression of candidates through the program or harm the consortium, the Executive Director shall deem that the re-organized consortium is eligible for a continuation grant.

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- b) A consortium that has received an implementation grant award or a continuation grant pursuant to this Part for a cohort of candidates in the prior fiscal year shall be subject to the requirements of this Section with respect to continued funding for that cohort in subsequent years.
- 1) The responsibility and roles of each partner in the consortium shall be set forth in a written agreement signed by each partner to be submitted with the application annually. The written agreement shall address at the least the following:
 - A) The process and responsibilities of each partner for the recruitment, selection and assessment of candidates;
 - B) The establishment of support systems and the specific roles of each partner in providing those supports. This may include, but shall not be limited to, tutoring, peer mentoring, professional development workshops, etc.; and
 - C) The process to develop an evaluation plan to measure the progress and success of individual candidates, as well as an evaluation of the partnership, and the role of each partner in making improvements based on the results of the evaluations.
 - 2) In addition to the application requirements of Section 1085.40, the application for a continuation grant must include the following:
 - A) An end-of-year report from the project director on the following:
 - i) Current status of the program and the status of each cohort member;
 - ii) The activities and support provided to date, including monetary and in-kind; and
 - iii) The degree to which candidates are achieving the program's objectives.
 - B) An updated proposal including:

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- i) Objectives, activities, timelines, and evaluation procedures for the renewal year, showing that it continues to meet all of the requirements set forth in Section 1085.60;
 - ii) Results/outcomes that have been achieved to date; and
 - iii) The relationship of results to any changes proposed for program operations from the previous year.
 - C) An updated budget including:
 - i) Budget summary;
 - ii) Payment schedule; and
 - ii) Narrative budget breakdown that describes any needed variances from the budget proposed in the prior year of funding.
- c) The Board shall, contingent upon appropriation or allocation of funds for this initiative, provide continuation funding to consortia that:
 - 1) Demonstrate that a majority of the candidates in the cohort served have completed coursework required under the teacher preparation program during at least one semester of the preceding year, as described in Section 1085.50(b);
 - 2) Demonstrate success in providing the supports necessary to retain candidates in the program; and
 - 3) Demonstrate that their programs continue to comply with the provisions of the Act and this Part.
- d) If, for any reason, the amount of funds available for release is not sufficient to distribute the continuation grants in a given fiscal year, the Board shall distribute prorated shares to grantees.
- e) In the event that an audit or other evidence establishes that the consortium failed to perform and/or the expenditure of grant funds was not consistent with the

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consortium's proposal, a full or partial reimbursement to the State shall be required.

Section 1085.80 Candidates

- a) Candidate Eligibility
 - 1) Meets the definition of a candidate in Section 1085.20;
 - 2) Meets the selection criteria determined by the consortium; and
 - 3) Eligible for student financial aid and *takes advantage of existing financial aid resources before using funds* from the Forgivable Loan Program described in Section 1085.90. (Section 20(8)(L) of the Act)

- b) Performance Plan for Each Candidate. The Board shall *provide a level of performance to be maintained by candidates as a condition of continuing in the program.* (Section 20(8)(K) of the Act) Measures to be implemented to ensure that each candidate makes adequate progress to complete the coursework required under the teacher preparation program shall include at least the following:
 - 1) Any developmental coursework that is needed in advance of beginning the coursework required under the teacher preparation program is completed within the first 4 semesters of a candidate's participation in the program;
 - 2) The candidate successfully completes a minimum of 15 hours of coursework required under the teacher preparation program each academic year;
 - 3) The candidate passes the test of academic proficiency pursuant to Section 21-1a of the School Code [105 ILCS 5/21-1a] before being allowed to enroll in coursework beyond 60 semester hours. For the purposes of this subsection (b)(3), any developmental coursework completed shall not be counted toward the 60 hour total; and
 - 4) Any candidate not completing coursework required under the teacher preparation programs for 2 consecutive semesters due to extenuating circumstances, including, but not limited to, military leave, health, etc., shall apply for a temporary leave from the GYO program. This application

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must be approved by the consortium partners. If the application is not approved or none is submitted, the candidate shall be deemed exiting the program without cause and subject to loan repayment.

- c) Information on Each Candidate. The Board shall identify the information that each consortium will be required to collect and update, including, but not limited to, the following:
- 1) Data by candidate, to be reported or updated at least once per academic year:
 - A) Name, address and demographics;
 - B) Eligibility criteria;
 - C) Date of enrollment, anticipated date of graduation, anticipated date of program completion, date of completion or exit;
 - D) If candidate exits before completion, provide explanation;
 - E) Developmental courses and tutoring;
 - F) Basic skills, teacher licensure and other test scores;
 - G) Grade point average (GPA) for all courses and for courses that compose the degree requirements of a teacher preparation program;
 - H) Annual amount of program loans, cumulative amount of program loans, and each year of teaching service; and
 - I) Information on the position taken by the graduate.
 - 2) Data by cohort, to be reported or updated each academic year:
 - A) Pass rates on basic skills test, content test, Assessment Professional Test, and/or other tests identified by the Board;

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- B) Number who intentionally exit voluntarily or do not register for two consecutive semesters;
- C) Percentage who progress at the expected rate through the program; and
- D) Percentage of candidates within the original cohort that start and complete the program.

Section 1085.90 Forgivable Loan Program

Every program under the initiative shall implement a program of forgivable loans to cover any portion of tuition, books, and fees of candidates under the program in excess of the candidates' grants-in-aid. All students admitted to a cohort shall be eligible for a forgivable student loan. Loans shall be fully forgiven if a graduate completes 5 years of service in hard-to-staff schools or hard-to-staff teaching positions, with partial forgiveness for shorter periods of service. The Board shall establish standards for the approval of requests for waivers or deferrals from individuals to waive this obligation. The Board shall also define standards for the fiscal management of these loan funds. (Section 25(a) of the Act) Any candidate in a program administered under this Part may receive a forgivable loan for tuition, books and fees associated with completion of the teacher preparation program, provided those expenditures are not otherwise paid for through grants-in-aid or other resources of the consortium. Any amount expended for an individual's tuition, books and fees shall be considered a part of that individual's loan, regardless of how the payment is administered and regardless of whether the individual receives any actual payment of funds. The cumulative total amount of any candidate's loan shall not exceed \$25,000.

- a) Pursuant to Section 25(a) of the Act, loan funds provided to candidates as part of this program *shall be fully forgiven if a graduate completes 5 years of service in hard-to-staff schools or hard-to-staff teaching positions, with partial forgiveness for shorter periods of service.* Forgiveness and repayment of loans shall be determined as provided in this Section.
- b) An individual may accrue the service required for forgiveness of loans under this Part in one or more eligible schools or positions.
- c) If an individual has not assumed employment in an eligible school or position within 2 years after receiving a teaching certificate, the individual shall be

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required to begin the repayment of amounts loaned under this Part. No interest shall apply.

- d) An individual who drops out of the program shall be required to begin repaying the amounts loaned in the month following the month when it becomes evident that he or she will not be completing coursework required under the teacher preparation program for 2 consecutive semesters.
- e) If a graduate has not completed 5 years of service within 10 years after receiving a teaching certificate, the individual shall be required to begin the repayment of amounts loaned under this Part. The amount due shall be the total amount borrowed, less a percentage reflecting the relationship that any time taught by the individual in eligible schools or positions bears to the total 5 year commitment. Loan amounts shall be reduced in increments of 10% for each semester completed.
- f) Repayment of loans shall be made in no more than 60 equal installments. The minimum monthly payment will be determined by dividing the total amount due by 60. An individual may prepay the balance due on the loan in its entirety at any time or make payments in addition to the minimum amount owed each month without penalty.
- g) In addition to the loan forgiveness permitted under Section 25 of the Act, the Board may defer or waive an individual's obligation to repay an amount due as provided in this subsection (g).
 - 1) The Board shall waive the repayment obligation for an individual who is counseled out of a preparation program or found ineligible to continue, provided that the individual's exit from the program is not due to a violation of law or of applicable institutional policies.
 - 2) The Board shall waive the repayment obligation for an individual who drops out of a preparation program or demonstrates that he or she is unable to complete a portion of the required teaching service due to:
 - A) The onset or exacerbation of a disability;
 - B) The need to care for an immediate family member during serious illness or disability;

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- C) Destruction of the individual's residence; or
 - D) Other circumstances that require the individual to assume responsibilities that cannot be avoided without serious financial hardship or other family disruption (e.g., death of a spouse that results in the need to take a second job or assume operation of a business).
- 3) The Board shall waive the repayment obligation for a candidate who does not complete a preparation program due to the unavailability of a State appropriation for this initiative for at least 2 consecutive years.
 - 4) The Board shall waive the repayment obligation for any candidate in good standing who cannot complete the preparation program due to the consortium's ineligibility for funds under Section 1085.70.
 - 5) The Board shall defer the repayment obligation for a period of time specifically related to the circumstances when an individual:
 - A) Is unemployed or is working for fewer than 30 hours per week;
 - B) Is experiencing a financial hardship (e.g., receiving public assistance, earning an amount per month that is no greater than 200% of the amount of the loan payment, or experiencing circumstances such as those outlined in subsection (g)(2) of this Section);
 - C) Has re-enrolled as a full-time student in an institution of higher education or in a program under this Part; or
 - D) Is deployed for active duty as a member of the U.S. Armed Services, reserve forces of the United States or as a member of the Illinois National Guard.
 - 6) Each request for a waiver or deferral of repayment shall be submitted in a format specified by the Board. The affected individual shall describe the specific circumstances that apply. This description shall be accompanied

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by evidence such as a physician's statement, insurance claim or other documentation of the relevant facts.

- h) When a teaching certificate is issued to an individual who received assistance under this Part, the certificate shall be accompanied by:
 - 1) A statement indicating the total amount of the loan received by the individual and identifying the dates applicable to repayment under this Section; and
 - 2) A claim form that the individual may use to claim forgiveness of the loan amount, which shall require the individual to identify the periods of service completed in eligible schools or positions and the school administrators who can verify the individual's service.

- i) Management of Loans
 - 1) It shall be the responsibility of each 4 year institution of higher education, and of any 2 year institution that participates in a consortium, to assist the Board with the forgivable loan process in the following manner:
 - A) By keeping records of the amounts provided to or on behalf of each individual for tuition, fees and books;
 - B) By keeping up-to-date contact information regarding the address and telephone number of each individual during the individual's preparation at that institution; and
 - C) By notifying the Board within 30 days after a candidate fails to enroll in coursework as expected or otherwise ceases to participate in the program and informing the Board of the total amount of the candidate's loan for direct expenses as of that point in time.
 - 2) When a candidate leaves a 2 year institution and enters a 4 year institution to continue in a program under this Part, the 2 year institution shall inform both the Board and the 4 year institution of the total amount of the candidate's loan for direct expenses as of that point in time. Each 2 year institution shall ensure that the affected 4 year institution continues to

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receive any information that subsequently affects the amount of a candidate's loan.

- 3) Each institution shall notify the Board as to who will be responsible for this information and shall provide contact information for the responsible individual within the institution.
- j) It shall be the responsibility of the Board to take such actions as may be necessary to secure repayment when necessary.

Section 1085.100 Grant Agreement

- a) Grant funds may not be expended except pursuant to a written grant agreement, and disbursement of grant funds without a grant agreement is prohibited. At a minimum, a grant agreement shall:
 - 1) Describe the purpose of the grant and be signed by authorized representatives of the Board and each member of the consortium;
 - 2) Name and contact information of the project director; the fiscal agent will be a public institution of higher education;
 - 3) Specify how payments shall be made and the financial controls applicable to the grant, including an agreement to file quarterly reports describing the progress of the activities and the expenditure of the related grant funds pursuant to the Illinois Grant Funds Recovery Act [30 ILCS 705];
 - 4) Specify that the use of grant funds will be consistent with Section 1085.50 for a planning grant, Section 1085.60 for an implementation grant or Section 1085.70 for a continuation grant;
 - 5) Specify the period of time for which the grant is valid and the period of time during which grant funds may be expended by the grantee;
 - 6) Contain a provision that all funds remaining at the end of the grant agreement, or at the expiration of the period of time grant funds are available for expenditure or obligation by the grantee, shall be returned to the State within 45 days;

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- 7) Contain a provision that any grantees receiving grant funds are required to permit the Board, the Auditor General or the Attorney General to inspect and audit any books, records or papers related to the projects for which grant funds were provided;
 - 8) Contain a provision in which the grantee certifies under oath that all information in the grant agreement is true and correct to the best of the grantee's knowledge, information and belief, that the funds shall be used only for the purposes described in the grant agreement, and that the award of grant funds is conditioned upon that certification;
 - 9) Provide that the institution shall contract with an external auditor who is a certified public accountant licensed by DFPR to conduct an audit of the expenditure of grant funds provided under this program at the end of the grant period to verify that grant funds were expended pursuant to the grant agreement and not for unauthorized purposes; and
 - 10) Require the grantee to use the interest earned on any grant funds for eligible projects. The interest earned on grant funds shall not change the amount of the grant.
- b) The Board may withhold or suspend the distribution of grant funds for failure to file required quarterly reports.
 - c) Upon the execution of a grant agreement, the Board will process a voucher to the grantee in accordance with the terms of the grant agreement, provided that the funds have been appropriated and have been made available to the Board.

Section 1085.110 Audit Guidelines

- a) To fulfill the audit requirements of this Part, the grantees shall contract with an external auditor who is a certified public accountant licensed by DFPR to perform an audit as specified in subsection (b).
- b) The external auditor shall:
 - 1) Receive copies of the institution's application, a certified grant agreement and a copy of this Part;

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- 2) Verify the expenditure of funds as provided for in this Part, and ensure that funds were expended on authorized expenditures listed in the grant agreement; and
 - 3) Provide an audit report to the Board including a description of the tests performed and the audit findings.
- c) In the event that an audit or other evidence establishes that an overpayment was made in a grant to an institution, a reimbursement to the Board shall be required. A reimbursement is required in the following situations:
- 1) Grant funds were not expended within the grant period; or
 - 2) Grant funds were expended for purposes not authorized under the grant agreement.
- d) In the event that no audits are submitted, an institution shall reimburse the State for the total amount of the grant.

Section 1085.120 Grant Funds Recovery Act

Grant funds are subject to the Illinois Grant Funds Recovery Act and all other applicable laws governing contracts and agreements in the State of Illinois. Pursuant to the Illinois Grant Funds Recovery Act, grants may be revoked and misspent grant funds recovered.

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Video Gaming (General)
- 2) Code Citation: 11 Ill. Adm. Code 1800
- 3) Section Number: 1800.250 Proposed Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by the Video Gaming Act [230 ILCS 40], specifically Section 78(a)(3) of that Act [230 ILCS 40/78(a)(3)]
- 5) A Complete Description of the Subjects and Issues Involved: Section 60(c) of the Video Gaming Act requires that "revenues generated from the play of video gaming terminals shall be deposited by the terminal operator, who is responsible for tax payments, in a specially created, separate bank account...." Implementing this statutory provision, Section 1800.250(i) of the video gaming rules (11 Ill. Admin. Code 1800.250 (i)) requires licensed video terminal operators to maintain a separate bank account for each licensed video gaming location.

The central communications system for video gaming, established and operated under the mandate of Section 15(15) of the Act [230 ILCS 40/15(15)], is incompatible with the present rule, as this communications system requires the establishment of *only one* bank account by each licensed video terminal operator. To conform with the Act, and the technical specifications of the central communications system, the present rulemaking amends Section 1800.250(i) to provide that each licensed video terminal operator shall maintain a single bank account covering all of the licensed locations with which it contracts.

- 6) Published studies or reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemakings to this Part pending? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
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ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

1800.110	Amendment	36 Ill. Reg. 5935, April 20, 2012
1800.250	Amendment	36 Ill. Reg. 6197, April 27, 2012
1800.270	Amendment	36 Ill. Reg. 6197, April 27, 2012
1800.930	Amendment	36 Ill. Reg. 6197, April 27, 2012
1800.820	New Section	36 Ill. Reg. 9377, June 29, 2012
1800.230	Amendment	36 Ill. Reg. 9863, July 13, 2012
1800.250	Amendment	36 Ill. Reg. 9863, July 13, 2012
1800.260	Amendment	36 Ill. Reg. 9863, July 13, 2012
1800.310	Amendment	36 Ill. Reg. 9863, July 13, 2012
1800.520	Amendment	36 Ill. Reg. 9863, July 13, 2012
1800.830	New Section	36 Ill. Reg. 9863, July 13, 2012
1800.1310	New Section	36 Ill. Reg. 9863, July 13, 2012
1800.250	Amendment	36 Ill. Reg. 10578, July 29, 2012

- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: No public hearing on the proposed rulemaking is scheduled at the present time. Any interested person may submit comments in writing concerning this proposed rulemaking not later than 45 days after publication of this Notice in the *Illinois Register* to:
- Lynn J. Carter
General Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago, Illinois 60601
- Phone No. 312/814-7253
Fax No. 312/814-7253
lynn.carter@igb.illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of businesses affected: The rulemaking will affect terminal operators licensed under the Video Gaming Act [230 ILCS 40].
- B) Reporting, bookkeeping or other procedures required for compliance: None

ILLINOIS GAMING BOARD

NOTICE OF PROPOSED AMENDMENT

- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2012

The full text of the Proposed Amendment is identical to that of the Emergency Amendment and can be found in this issue of the *Illinois Register* on page 12895.

COMPTROLLER

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Standard Procurement
- 2) Code Citation: 44 Ill. Adm. Code 1120
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1120.01	Amend
1120.05	Amend
1120.08	Amend
1120.15	Amend
1120.525	Amend
1120.1002	Amend
1120.2005	Amend
1120.2010	Amend
1120.2012	Amend
1120.2015	Amend
1120.2020	Amend
1120.2025	Amend
1120.2030	Amend
1120.2035	Amend
1120.2036	Amend
1120.2037	Amend
1120.2038	Amend
1120.2040	Amend
1120.2043	Amend
1120.2044	Amend
1120.2045	Amend
1120.2047	Amend
1120.2050	Amend
1120.2055	Amend
1120.2060	Repeal
1120.2580	New Section
1120.4505	Amend
1120.4510	Amend
1120.4530	Amend
1120.4535	Amend
1120.4545	Repeal
1120.4550	Repeal
1120.5020	Amend
1120.5030	Amend

COMPTROLLER

NOTICE OF PROPOSED AMENDMENTS

1120.5035	Amend
1120.5040	New Section
1120.5510	Amend
1120.5520	Amend
1120.5530	Amend
1120.5540	Amend
1120.5550	Amend
1120.5560	New Section
1120.7015	Amend
1120.7025	Amend

- 4) Statutory Authority: Authorized by Section 21 of the State Comptroller Act [15 ILCS 405/21]. Implementing the Illinois Procurement Code [30 ILCS 500]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments further define terms, provide the structure for the execution and oversight of procurements, specify the required documentation of procurement actions, and allows for the appointment of a Chief Procurement Officer, Procurement Policy Board, and Chief Internal Auditor. The proposed amendments add Sections pertaining to hearings and decisions relating to procurement as well as a Section on lobbying restrictions in procurement activities. A Section defining the duration of contracts with subcontractors was also included. The small purchase maximum has been reset to a level that is more commensurate with current State practices.
- 6) Published studies or reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.

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- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Alissa J. Camp
General Counsel
Office of the Comptroller
Room 201 Statehouse
Springfield, IL 62706

217/782-0905
CampAJ@mail.ioc.state.il.us

The Office of the Comptroller will consider all written comments it receives during the First Notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

This rulemaking may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Office of the Comptroller at the above address in accordance with the regulatory flexibility provisions found in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as a small business, small municipality, or not-for-profit corporation as part of any written comments they submit to the Office of the Comptroller.

- 13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. The types of entities affected cannot be ascertained at this time.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: The Illinois Office of the

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Comptroller did not anticipate the filing of this rulemaking at the time for submittal of a Regulatory Agenda. Accordingly, the Illinois Office of the Comptroller did not summarize the rulemaking in a regulatory agenda.

The full text of the Proposed Amendments begins on the next page:

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NOTICE OF PROPOSED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER XIV: COMPTROLLER

PART 1120

OFFICE OF THE COMPTROLLER STANDARD PROCUREMENT

SUBPART A: GENERAL

Section

- ~~1120.1~~~~101.01~~ Title
- ~~1120.5~~~~120.05~~ Policy
- ~~1120.8~~~~120.08~~ Illinois Procurement Code
- 1120.10 Application
- 1120.15 Definitions of Terms Used in this Part
- 1120.25 Property Rights

SUBPART B: PROCUREMENT RULES

Section

- 1120.525 Rules

SUBPART C: PROCUREMENT AUTHORITY

Section

- 1120.1002 Conduct and Oversight of Procurements

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section

- 1120.1510 Illinois Procurement Bulletin
- 1120.1560 Supplemental Notice
- 1120.1570 Error in Notice
- 1120.1580 Direct Solicitation

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section

- 1120.2005 General Provisions

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1120.2010	Competitive Sealed Bidding
1120.2012	Multi-Step Sealed Bidding
1120.2015	Competitive Sealed Proposals
1120.2020	Small Purchases
1120.2025	Sole Economically Feasible Source Procurement
1120.2030	Emergency Procurements
1120.2035	Competitive Selection Procedures for Professional and Artistic Services
1120.2036	Other Methods of Source Selection
1120.2037	Tie Bids and Proposals
1120.2038	Mistakes
1120.2040	Cancellation of Solicitations; Rejection of Bids or Proposals

SUBPART F: SUPPLIERS, PREQUALIFICATION, AND RESPONSIBILITY

Section

1120.2043	Suppliers
1120.2044	Vendor Lists
1120.2045	Prequalification
1120.2046	Responsibility

SUBPART G: BID, PROPOSAL, AND PERFORMANCE SECURITY

Section

1120.2047	Security Requirements
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SUBPART H: SPECIFICATIONS AND SAMPLES

Section

1120.2050	Specifications <u>and Samples</u>
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SUBPART I: CONTRACT TYPE

Section

1120.2055	Types of Contracts
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SUBPART J: DURATION OF CONTRACTS

Section

1120.2060	Duration of Contracts – General
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SUBPART K: CONTRACT MATTERS

Section

- | 1120.2560 Prevailing Wage (~~Repealed~~)
- | 1120.2570 Equal Employment Opportunity: Affirmative Action
- | 1120.2580 Subcontractors

SUBPART L: CONTRACT PRICING

Section

- 1120.2800 All Costs Included

SUBPART M: CONSTRUCTION AND
CONSTRUCTION-RELATED PROFESSIONAL SERVICES

Section

- 1120.3005 Construction and Construction-Related Professional Services

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section

- 1120.4005 Real Property Leases and Capital Improvement Leases

SUBPART O: PREFERENCES

Section

- 1120.4505 Procurement Preferences
- 1120.4510 Resident Bidder Preference
- 1120.4530 Correctional Industries
- 1120.4535 Sheltered Workshops for the Disabled
- 1120.4540 Gas Mileage
- | 1120.4545 Small Business (~~Repealed~~)
- | 1120.4550 Contracting with Business Owned and Controlled by Minorities, Females, and
Persons with Disabilities (~~Repealed~~)

SUBPART P: ETHICS

Section

- 1120.5013 Conflicts of Interest

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- 1120.5015 Negotiations for Future Employment
- 1120.5020 Exemptions
- 1120.5030 Revolving Door
- 1120.5035 Disclosure of Financial Interests and Potential Conflicts of Interest
- | [1120.5040 Lobbying Restrictions](#)

SUBPART Q: CONCESSIONS

- Section
- 1120.5310 Concessions

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

- Section
- | 1120.5510 Complaints Against Vendors [or Subcontractors](#)
- 1120.5520 Suspension
- 1120.5530 Settlement and Resolution of Contract and Breach
- 1120.5540 Violation of Statute or Rule
- 1120.5550 Protests
- | [1120.5560 Hearings and Decisions](#)

SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

- Section
- 1120.6010 Supply Management and Dispositions

SUBPART T: GOVERNMENTAL JOINT PURCHASING

- Section
- 1120.6500 General
- 1120.6510 State Use of Other Contracts
- 1120.6520 No Agency Relationship

SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

- Section
- 1120.7000 Severability
- 1120.7010 Government Furnished Property
- 1120.7015 Inspections
- 1120.7020 Records and Audits

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1120.7025 Written Determinations
1120.7030 No Waiver of Sovereign Immunity

AUTHORITY: Implementing the Illinois Procurement Code [30 ILCS 500] and authorized by Section 21 of the State Comptroller Act [15 ILCS 405/21].

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 12087, effective July 1, 1998, for a maximum of 150 days; emergency expired November 27, 1998; adopted at 23 Ill. Reg. 858, effective January 8, 1999; amended at 25 Ill. Reg. 14380, effective November 10, 2001; amended at 36 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section ~~1120.11~~1120.01 Title

This Part may be cited as the Comptroller's Procurement Rules.

(Source: Section 1120.01 renumbered to Section 1120.1 at 36 Ill. Reg. _____, effective _____)

Section ~~1120.51~~1120.05 Policy

All procurements for the Office of the Comptroller (IOC) shall be accomplished in the most economical, expeditious and commercially reasonable manner that is in accordance with statute, this Part and other applicable rules.

(Source: Section 1120.05 renumbered to Section 1120.5 at 36 Ill. Reg. _____, effective _____)

Section ~~1120.81~~1120.08 Illinois Procurement Code

Articles 1, 15, 20, 25, ~~30, 33,~~ 35, 40, ~~43,~~ 45, 50; and 53 of the Illinois Procurement Code [30 ILCS 500/Arts. 1, 15, 20, 25, ~~30, 33,~~ 35, 40, ~~43,~~ 45, 50; and 53] (the Code) will be referenced in this Part. ~~as though applicable to the IOC, and needs shall be procured in a manner substantially in accordance with those provisions of the Code, except to the extent otherwise provided in this Part. The Office of the Comptroller shall procure its needs in a manner substantially in accordance with the requirements of the Code. [30 ILCS 500/1-30(a)]~~ For purposes of this Part, any reference in the Code or this Part to the Chief Procurement Officer (CPO) means the ~~employee appointed by the~~ Comptroller ~~to serve in that capacity or his/her designee. The~~

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~~Comptroller may appoint one or more State Purchasing Officers (SPOs).~~

(Source: Section 1120.08 renumbered to Section 1120.8 and amended at 36 Ill. Reg. _____, effective _____)

Section 1120.15 Definitions of Terms Used in ~~this~~This Part****

As used throughout this Part, terms defined in the Illinois Procurement Code shall have the same meaning as in the Code and as further defined ~~in this Section~~**below**, and each term listed in this Section shall have the meaning set forth ~~in this Section~~**below** unless its use clearly requires a different meaning. Terms may be defined in particular Sections for use in that Section.

"Amendment" – A written unilateral or bilateral modification to a contract term, as permitted by the original contract. These modifications shall alter the performance and completion of the contract, including, but not limited to, such matters as extra work and increases or decreases in quantities of goods not included within the scope of the original contract.

"Award" – The selection of a vendor for a contract.

"Bid" – The response to an Invitation for Bids.

"Bidder" – Any person who submits a bid.

"Bidder or Offeror Authorized to do Business in Illinois" – A person that is a legal entity authorized to do business in Illinois by the Secretary of State-
Department of Business Services.

"Brand Name or Equal Specification" – A specification that uses one or more manufacturer's names or catalogue numbers to describe the standard of quality, performance, and other characteristics needed to meet State requirements; and that allows the submission of equivalent products.

"Brand Name Specification" – A specification limited to one or more items by manufacturers' names or catalogue numbers.

"Bulletin" – The Illinois Procurement Bulletin.

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"Change Order" – A change order shall have the same meaning as an "amendment".

"Chief Procurement Officer" or "CPO" means the Chief Procurement Officer for the Illinois Office of the Comptroller.

"Code" – The Illinois Procurement Code [30 ILCS 500].

"Concession" – The right or a lease to engage in a certain activity for profit on the lessor's premises (e.g., a refreshment or parking concession).

"Consulting Services" – Services provided by a business or person as an independent contractor to advise and assist an agency in solving specific management or programmatic problems involving the organization, planning, direction, control or operations of a State agency. The services may or may not rise to the level of professional and artistic as defined in the Code and this Part.

"Contract" – A contract may be in written or oral form. The term contract as used in the Code and this Part does not include: ~~supplies~~goods or services the terms governing which are established by tariff of the Illinois Commerce Commission or the Federal Communications Commission, bonds, ~~or contracts relating to bonds~~ issued by or on behalf of ~~any~~ State agency ~~when the contractor or vendor is neither selected nor paid by, or contracts, other than for "concessions", that~~ the State agency ~~signs. The term "contract" includes, but under which it has no financial obligation to the other parties is not limited to, purchase, installment purchase, lease and rental contracts.~~

"Contractor" or "Vendor" – The terms contractor and vendor are used interchangeably for purposes of the Code and this Part.

"Day" – Calendar day. In computing any period of time, the day of the event from which the designated period of time begins to run shall not be included, but the last day of the period shall be included unless it is a Saturday, Sunday, or a State holiday, in which event the period shall run to the end of the next business day.

"DCMS" – The Department of Central Management Services.

"IOC" – The Illinois Office of the Comptroller.

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"Items" – Anything that may be procured under the Code.

"Invitation for Bids" or "IFB" – The process by which a purchasing agency requests information from bidders, including all documents, whether attached or incorporated by reference, used for soliciting bids. [30 ILCS 500/1-15.45]

"Multi-Year Contract" – A contract with a performance term of more than 12 months.

"Offeror" – A person who responds to an IFB, RFP or other form of solicitation.

"Procurement Officer" – The Chief Procurement Officer (CPO), ~~appropriate SPO,~~ or ~~a his or her~~ designee ~~of either who is charged with conducting a particular procurement.~~

"Proposal" – The response to a Request for Proposals.

"Protest Review Office" – The office address of the person designated in the solicitation documents to which protests must be directed. The person designated in the solicitation documents will respond to or coordinate the response to the protest.

"Qualified Products List" – An approved list of supplies, ~~services, or construction items,~~ described by model or catalogue numbers, that, prior to competitive solicitation, the State has determined will meet the applicable specification requirements.

"Renewal" – An extension of an original contract that contains terms materially identical to the original contract.

"Request for Information" or "RFI" – The process by which a purchasing agency requests information from offerors for all State contracts and leases of real property or capital improvements.

"Request for Proposals" or "RFP" – The process by which a purchasing agency requests information from offerors, including all documents, whether attached or incorporated by reference, used for soliciting proposals. [30 ILCS 500/1-15.75]

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"Responsible Bidder or Offeror" – A person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability that will assure good faith performance. A responsible bidder or offeror shall not include a business or other entity that does not exist as a legal entity at the time the bid or proposal is submitted for State contract.

"Reverse Auction" – A source selection technique that allows for purchase of supplies or services through a competitive auction process. A reverse auction allows bidders to electronically submit prices for an IFB during a predefined time period and is designed to obtain the lowest cost for supplies and services.

"Service" – The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports or supplies that are incidental to the required performance [30 ILCS 500/1-15.90], and the financing of that labor, time or effort.

"Solicitation" – An IFB, RFP or other request to one or more vendors to respond to a procurement need expressed by the State.

"Specification" – Any description of the physical, functional, or performance characteristics of, or of the nature of, a supply, service, or construction item. A specification includes, as appropriate, requirements for inspecting, testing, or preparing a supply, service, or construction item for delivery. Unless the context requires otherwise, the terms "specification" and "purchase description" are used interchangeably throughout this Part.

"Specification for a Common or General Use Item" – A specification that has been developed and approved for repeated use in procurements.

"Subcontract" – A contract between one person and another person who has or is seeking a contract subject to the Code, pursuant to which the subcontractor provides to the contractor some or all of the goods, services, property, remuneration or other form of consideration that are the subject of the primary contract, and includes, among other things, subleases from a lessee of a State agency.

"Subcontractor" – A person or entity that enters into a contractual agreement, for an amount greater than the small purchase limit set by Section 20-20 of the Code (or an amount set by rule pursuant to Section 20-20(c) of the Code), Section 35-

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35 of the Code or Section 45 of the Architectural, Engineering and Land Surveying Qualifications Based Selection Act [30 ILCS 535/45], with a contractor who has or is seeking a contract subject to the Code, to provide the contractor some or all of the goods, services, property, remuneration or other forms of consideration that are the contractor's obligations under the contract.

"Supplies" or "Goods" – All personal property, including, but not limited to, equipment, materials, printing, and insurance, and the financing of those supplies. [30 ILCS 500/1-15.110]

"Unsolicited Offer" – Any offer other than one submitted in response to a solicitation.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART B: PROCUREMENT RULES

Section 1120.525 Rules

- a) To the extent practicable, the IOC may avail itself of master, scheduled or open-ended contracts established by DCMS; items available from the Paper and Printing Warehouse; and DCMS contracts for telecommunications equipment, software and services, paper and envelopes, and vehicles and vehicle services. The CPO or his/her designee~~SPO~~ may submit purchase requests to DCMS in accordance with rules promulgated by DCMS.
- b) The IOC shall procure its capital needs in a manner substantially in accordance with the requirements of this Part and will promulgate rules specifically for capital construction that are no less restrictive than the requirements of the Code. Until specific Comptroller rules can be promulgated for this purpose, the IOC will conform its capital procurement activities to the requirements of the Code by following the administrative rules of the CPO for Capital Development Board (44 Ill. Adm. Code 8), the Capital Development Board (44 Ill. Adm. Code 950 and 980) and the CPO for General Services (44 Ill. Adm. Code 1).

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART C: PROCUREMENT AUTHORITY

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Section 1120.1002 Conduct and Oversight of Procurements**a) Chief Procurement Officer**

- 1) The Comptroller ~~or his/her designee~~ shall appoint a Chief Procurement Officer (CPO) ~~serve as CPO~~ for purposes of the Code and this Part. ~~and~~
- 2) ~~The CPO may conduct any or all procurements on behalf of the IOC. The CPO may appoint one or more SPOs to conduct procurement in accordance with the terms of the appointment and this Part.~~
- 3) The CPO shall:
 - A) have at least 5 or more years of experience in state or corporate budgeting activities, or shall be a certified professional public buyer or certified public purchasing officer; and
 - B) be a resident of the State of Illinois; and
 - C) serve in his or her capacity as CPO for a term not to exceed 5 years from the date of appointment; and
 - D) owe a fiduciary duty to the State; and
 - E) perform duties as required by law.
- 4) The CPO is responsible for signing all written award determination letters stating the reasoning for any contract award decision.
- 5) The CPO may designate one or more Procurement Officers to conduct procurements on behalf of the CPO in accordance with conditions specified in the terms of the CPO's appointment and this Part.

- b) Procurement Compliance Monitor. The IOC Ethics Officer, appointed pursuant to the State Officials and Employees Ethics Act [15 ILCS 430], or his/her designee, shall serve as the Procurement Compliance Monitor. If a designee is appointed to serve as the monitor, that designee shall be classified as a Senior Public Service Administrator or above and, upon attaining certified status, shall have the employment protections afforded by that status. It shall be the duty of**

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the monitor to oversee and review the procurement processes. The monitor shall have direct communication with the Comptroller. The monitor shall:

- 1) have the right to review all contracts, attend any procurement meetings, and access reports and files;
- 2) issue reports to the CPO regarding outstanding procurement problems;
- 3) ensure transparency and compliance with procurement laws;
- 4) report findings of waste to IOC departments. If the department does not correct circumstances causing the waste, the monitor shall report to the CPO and the Inspector General; and
- 5) perform other duties as required by law.

c) Procurement Policy Board. The Comptroller shall appoint an Office of the Comptroller Procurement Policy Board (IOC PPB). The IOC PPB shall consist of 3 members who are employees of the Comptroller. In making appointments to the IOC PPB, the Comptroller shall consider an individual's knowledge and experience in State government procurements and operations. The members shall receive no additional compensation for serving on the IOC PPB other than reimbursement for expenses. Except as provided in subsection (d), the IOC PPB shall:

- 1) meet a minimum of three times annually and be contacted in writing prior to the publication of any RFI exceeding \$100,000;
- 2) be authorized to review, comment upon, and recommend rules and practices governing the procurement, management, control and disposal of supplies, services, professional or artistic services, construction and capital improvements procured by IOC;
- 3) be authorized to review any proposal, bid or contract, and may issue recommendations regarding procurement matters;
- 4) be notified by the CPO if a conflict of interest is identified, discovered or reasonably suspected to exist. In the event of a notification, the IOC PPB is to recommend action and give its recommendations to the CPO and

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Comptroller. The IOC PPB's recommendation shall be published in the next available issue of the Bulletin;

- 5) report to the Inspector General whenever the PPB has cause to believe there has been a violation of the Procurement Code; and
 - 6) perform other duties as required by law.
- d) Chief Internal Auditor. The Comptroller shall appoint a chief internal auditor. The auditor must have a Bachelor's degree, and must be either a certified internal auditor, a certified public accountant with at least 4 years of auditing experience, or an auditor with 5 years of experience. The chief internal auditor shall report directly to the Comptroller. Subject to the approval of the Comptroller, and consistent with the Fiscal Control and Internal Auditing Act [30 ILCS 10], the chief internal auditor shall:
- 1) direct the internal audit functions and activities;
 - 2) prepare audit reports and assess program goals;
 - 3) be responsible for the preparation of an annual audit plan for submission to and subject to the approval of the Comptroller; and
 - 4) perform other duties as required by law.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section 1120.2005 General Provisions

- a) Late Bids or Proposals, Late Withdrawals and Late Modifications:
 - 1) Definition. Any bid or proposal received after the time and date for receipt, and at other than the specified location, is late. A bid that is delivered to the wrong location but that is subsequently delivered to the correct location by the date and time specified shall be considered, but the IOC shall not be responsible for ensuring such subsequent delivery. Any withdrawal or modification of a bid or proposal received after the time and

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date set for opening of bids or proposals is late. If received at other than the specified location, the submission is late.

- 2) Treatment. No late bid or proposal, late modification, or late withdrawal will be considered unless the CPO, and not a designee, determines it would have been timely but for the action or inaction of IOC personnel directly serving the procurement activity (e.g., providing the wrong address).
- 3) Records. Records shall be made and, in accordance with the State Records Act [5 ILCS 160], kept for each late bid or proposal, late modification, or late withdrawal.
- 4) Other Submissions. Any other submission that has a time or date deadline shall be treated in the same manner as a late bid.

b) ~~Extension of Time-~~

- 1) The Procurement Officer may, prior to the date or time for submitting or modifying a bid or proposal or modifying or withdrawing a bid or proposal may be extended by the IOC prior to such, extend the date or time for the convenience of the IOC. Reasons for extension include, but are not limited to, allowing additional time for submissions to account for inclement weather or, labor strikes, accidents and for other such reasons.
- 2) After opening bids or proposals, the Procurement Officer~~CPO or SPO~~ may request bidders or offerors who submitted timely bids or proposals to extend the time during which the IOC may accept bids or proposals, provided that, with regard to bids, no other change is permitted. The reasons for requesting an such extension shall be documented. This extension does not provide an opportunity for others to submit bids or proposals.

c) ~~Electronic and Facsimile Submissions-~~

- 1) The Invitation for Bids (IFB) or Request for Proposals (RFP) may state that electronic and facsimile machine submissions will be considered if they are received at the designated office by the time and date set for receipt. Any required attachments will be submitted as stated in the IFB

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or RFP.

2) Electronic submissions authorized by specific language in the IFB or RFP will be opened in accordance with electronic security measures in effect at the IOC at the time of opening. Unless the electronic submission procedures provide for a secure receipt, vendor assumes risk of premature disclosure due to submission in unsealed form.

3) Fax submissions authorized by specific language in the IFB or RFP will be placed in a sealed container upon receipt and opened as other submissions. Vendor assumes risk of premature disclosure due to submission in unsealed form.

d) Intent to Submit-

The ~~IFB~~Invitation for Bids or ~~RFP~~the Request for Proposals may require that vendors submit, by a certain time and date, a notice of their intent to submit a bid or proposal in response to the IFB or RFP. Bids and proposals submitted without complying with the notice of intent requirement may be rejected.

e) Only One Bid or Proposal Received-

If only one bid or proposal is received, an award may be made to the single bidder or offeror if the CPO ~~or SPO~~ finds that the price submitted is fair and reasonable, and that either other prospective bidders had reasonable opportunity to respond or there is not adequate time for resolicitation. Otherwise:

1) new bids or offers may be solicited, including under sole source (Section 1120.2025) or emergency (Section 1120.2030) procedures;

2) the procurement may be canceled; or

3) if the CPO ~~or SPO~~ determines in writing that the need for the supply or service continues, but that the price of the one bid is not fair and reasonable and there is no time for resolicitation or resolicitation would likely be futile, the procurement may then be conducted with any vendor under Section 1120.2025 ~~(Sole Economically Feasible Source Procurement)~~ or Section 1120.2030 ~~(Emergency Procurements)~~, as appropriate. The CPO ~~or SPO~~ shall attempt to negotiate the price to a more acceptable level.

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- f) Alternate or Multiple Bids or Proposals:
~~1) Alternate bids or proposals may be accepted if:~~
- ~~1)A) permitted by the solicitation and in accordance with instructions in the solicitation; or~~
 - ~~2)B) only one vendor responded, in which case the alternate submission may be evaluated and treated in accordance with Section 1120.2025 (Sole Economically Feasible Source Procurement) of this Part; or~~
 - ~~3)C) the low bidder, who has met all requirements of the solicitation, has provided a lower cost alternative that meets all of the material requirements of the specifications; or~~
 - ~~D) a vendor clearly indicates a primary submission, then that primary submission shall be considered for award as though it were the only bid or proposal submitted by the vendor.~~
 - ~~2) Multiple bids or proposals may be accepted if:~~
 - ~~A) permitted by the solicitation and submitted in accordance with instructions in the solicitation; or~~
 - ~~B) only one vendor responded, one or more of the submissions may be evaluated, provided that, in the case of bids, only the lowest cost bid meeting specifications may be considered.~~
- g) Multiple Items:
An ~~IFB Invitation for Bids~~ or ~~RFP Request for Proposals~~ may call for pricing of multiple items of similar or related type with award based on individual line item, group total of certain items, or grand total of all items.
- h) "All or None" Bids or Proposals:
All or none bids or proposals may be accepted if the evaluation shows an all or none award to be in the State's best interest.
- i) Conditioning Bids or Proposals Upon Other Awards:
Any bid or proposal that is conditioned upon receiving award of the particular contract being solicited and one or more other State contracts shall:

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- 1) be rejected unless the vendor removes the condition; or
 - 2) be evaluated and award made to that vendor if the vendor is also independently evaluated as the winner of the other IFBs or RFPs, provided the agency need not delay procurement actions to accommodate the vendor's all or none condition.
- j) Unsolicited Offers:
- 1) Processing of Unsolicited Offers. The ~~Procurement Officer~~CPO or the SPO may consider unsolicited offers and shall have final authority with respect to evaluation, acceptance and rejection of ~~the such~~ unsolicited offer.
 - 2) Conditions for Consideration. An unsolicited offer must be in writing and must be sufficiently detailed to allow a judgment to be made concerning the potential utility of the offer to the State.
 - 3) ~~Award. An award may not be made based on an unsolicited offer in place of the notice and competition requirements of the Code and this Part, except if that unsolicited offer meets the requirements for a small, sole source or emergency procurement. Evaluation. The unsolicited offer may be evaluated to determine its utility to the State and whether it would be to the State's advantage to enter into a contract based on such offer. An unsolicited offer that meets the requirements set forth above may be considered for award if the procurement also meets the requirements of Section 1120.2025 (Sole Economically Feasible Source Procurement) or Section 1120.2020 (Small Purchases), in which case those procedures shall be followed as applicable.~~
 - 4) Confidentiality. Any request for confidentiality of data contained in an unsolicited offer must be made in writing. If agreement cannot be reached on confidentiality, the IOC shall reject the unsolicited offer.
- k) Clarification of Bids and Proposals:
- The ~~Procurement Officer~~IOC may request that a vendor clarify its bid or proposal as a part of the evaluation process. A vendor shall not be allowed to materially change its bid or proposal in response to a request for clarification.

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- l) Extension of Time on Indefinite Quantity Contracts.
The time of performance of an indefinite quantity contract may be extended upon agreement of the parties, provided the extension is for 90 days or less and the Procurement Officer~~CPO or the SPO~~ determines in writing that it is not practical to award another contract at the time of ~~the~~such extension. A clarification is not an opportunity for discussion or for submission of Best & Finals~~best and finals~~ as authorized elsewhere in this Part.
- m) Increase in Quantity on Definite Quantity Contracts-
- 1) The quantity that may be ordered from a definite quantity contract without additional notice and competition may be increased by up to 20% provided the Procurement Officer~~CPO or SPO~~ determines that separate bidding for the additional quantity is not likely to achieve lower pricing.
 - 2) The quantity may be increased by any percentage provided the dollar value of the increase does not exceed the small purchase threshold applicable to the type of good or service.
- n) Subsequent Purchase Request
If, within 30 days after making an award to a particular vendor pursuant to a competitive sealed bid on behalf of IOC, the CPO receives a purchase request for the same item and for the same or lesser quantity, the CPO may contract with that vendor on the same terms and conditions, including price, without additional notice and competition, if such a contract is acceptable to the vendor.
- on) Novation or Change of Name-
- 1) Assignment. No IOC contract is transferable, or otherwise assignable, without the written consent of the Procurement Officer~~CPO~~; however, a vendor may assign monies receivable under a contract after due notice to the IOC. Assignment may require the execution of a contract with the assignee and in such cases the assignee must meet all requirements for contracting with the IOC.
 - 2) Recognition of a Successor in Interest; Novation. When in the best interest of the State, a successor in interest may be recognized in a novation agreement in which the transferor and the transferee agree that:

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- A) the transferee assumes all of the transferor's obligations;
 - B) the transferee meets all requirements for contracting with the State;
 - C) the transferor waives all rights under the contract as against the IOC; and
 - D) unless the transferor guarantees performance of the contract by the transferee, the transferee shall, if required by the IOC, furnish a satisfactory performance bond.
- 3) Change of Name. ~~A~~ When a vendor may submit to the Procurement Officer a written request requests to change the name in which it holds a contract with the State. ~~The name IOC, the CPO shall, upon receipt of a document indicating such change of name, enter into an agreement with shall not alter any of the requesting vendor to effect such a change of name. The agreement changing the name shall specifically indicate that no other~~ terms and conditions of the contract or the obligations of the vendor are thereby changed.
- ~~p~~e) Contracting for Installment Purchase Payments, Including Interest. Contracts may provide for installment purchase payments, including interest charges, over a period of time. The interest rate may not exceed that established by law, including the Bond Authorization Act [30 ILCS 305].
- ~~q~~) Use of Source Selection Method that is Not Required
If IOC uses a method of source selection that it is not required by law to use (e.g., use of competitive sealed bid for a small purchase), the IOC is not bound to strict compliance with the Code and the rules governing the method of source selection used.
- ~~r~~) Vendor Signature
A bid or proposal submitted unsigned will be evaluated if the vendor submits a written signature acceptable to the Procurement Officer within the time specified by the CPO.
- ~~s~~) Stringing

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Dividing or planning procurements to avoid the use of competitive procedures (stringing) is prohibited.

- t) Confidential Data
Vendors must clearly identify any information that is exempt from the disclosure requirement of the Freedom of Information Act [5 ILCS 140] and must request special handling of that material.
- u) Documentation of Procurement Actions
 - 1) The Procurement Officer shall maintain in the procurement or associated contract file all substantive documents and records of communications that pertain to the procurement and any resulting contract. This shall include, as applicable, but is not limited to:
 - A) Procurement Bulletin postings;
 - B) Solicitation documents (e.g., IFBs) and all amendments, clarifications and Best & Final requests;
 - C) Vendor's responses, including clarifications and responses to Best & Final requests;
 - D) Evaluation materials (e.g., scoring guidelines and forms, completed score sheets for individual evaluators (including notes), evaluation committee's combined score sheets, evaluation committee's recommendations, and management's decision);
 - E) Protests and resolutions;
 - F) Contracts and any orders, changes, amendments, renewals or extensions.
 - 2) All information from subsection (u)(1), less any information exempt from disclosure under the Freedom of Information Act, shall be prepared and made available for inspection and copying, with information from subsections (u)(1)(A) through (D) made available on the date any award is posted to the Bulletin.

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v) Communications Related to Procurement

- 1) Any IOC employee who receives a written or oral communication that imparts or requests material information or makes a material argument regarding potential action concerning a procurement matter, including but not limited to an application, contract or project, shall report the communication to the IOC PPB.
- 2) A communication must be reported if it is material, if it regards a potential action, if it relates to a procurement matter and if it is not otherwise excluded from reporting.

A) Materiality

- i) "Material information" is information that a reasonable person would deem important in determining his or her course of action. It is information pertaining to significant issues, including, but not limited to, price, quantity and terms of payment or performance.
- ii) A "material argument" is a communication that a reasonable person would believe was made for the purpose of influencing a decision relating to a procurement matter. It does not include general information about products, services or industry best practices, or a response to communications initiated by an employee of the IOC for purposes of providing information for the evaluation of new products, trends, services or technologies.
- iii) In determining whether a communication is material, the State employee may consider:
 - Whether the information conveyed is new or already known to the IOC (or repeated or restated privately) and other participants in the communication; and
 - The likelihood that the information would influence a pending procurement matter.

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B) A "potential action" is one that a reasonable person would believe could affect the initiation, development or outcome of a procurement matter.

3) This Section does not apply to the following communications:

A) Communication regarding the procurement of items that have a contract value less than the small purchase amount stated in Section 1120.2020;

B) Communications made in a public forum;

C) Communications regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of the matter;

D) Communications regarding the administration and implementation of an existing contract (see 30 ILCS 500/50-39(a));

E) Communication between the IOC employee and:

i) the Comptroller;

ii) other State employees of the IOC;

iii) employees of the Executive Ethics Commission;

iv) an employee of another State agency who, through the communication, is either:

- exercising his or her experience or expertise in the subject matter of the particular procurement in the normal course of business, for official purposes, and at the initiation of the purchasing agency or the appropriate CPO; or

- exercising oversight, supervisory or management authority over the procurement in the normal course of business and as part of official responsibilities;

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- F) Unsolicited communications providing general information about products, services or industry best practices, prior to those products or services becoming involved in a procurement matter;
 - G) Communications received in response to procurement solicitations pursuant to the Code, including, but not limited to, vendor responses to an RFI, RFP, Request for Qualifications or IFB, or a small purchase, sole source or emergency solicitation, and questions and answers posted to the Bulletin to supplement the procurement action. This exemption is not applicable unless the communications are made in accordance with the instructions contained in the procurement solicitation, procedures or guidelines;
 - H) Communications that are privileged, protected or confidential under law;
 - I) Communications that are part of the formal procurement process as set out by statute, rule or procedure, such as the posting of procurement opportunities, the process for approving a Procurement Business Case (as defined in 2 Ill. Adm. Code 1620.825(i)) or its equivalent, fiscal approval, submission of bids, the finalizing of contract terms and conditions with an awardee or apparent awardee, and similar formal procurement processes.
- 4) Notwithstanding any exemption provided in subsection (v)(3), an IOC employee must report any communication that imparts or requests material information or makes a material argument regarding a potential action concerning a procurement matter if the employee reasonably believes the communication was made for any improper purpose, including, but not limited to, providing an improper benefit, monetary or non-monetary, to any person or entity.
 - 5) As soon as is practicable, but in no event more than 30 days after receipt of the communication or the first of a series of communications described in subsection (v)(2), the State employee shall report the communication to the CPO Site in accordance with the IOC PPB rules.
 - 6) For purposes of this Section, "State employee" means:

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- A) any person employed full-time, part-time or pursuant to a personal services contract with the State and whose employment duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed; or
- B) any appointed or elected commissioner, trustee, director or member of a board of a State agency; or
- C) any other person appointed to a position in or with a State agency, regardless of whether the position is compensated.
- 7) For purposes of this Section, "public forum" includes any meeting that satisfies the notice requirements contained in Section 2.02 of the Open Meetings Act [5 ILCS 120/2.02], but also other public events that are advertised and generally open to the public. A meeting may be a public forum even if a reasonable fee is required. Examples include educational seminars and conferences.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.2010 Competitive Sealed Bidding

- a) ~~Application-~~
Competitive sealed bidding is the required method of source selection, except as allowed by the Code and this Part. The provisions of this Section apply to every procurement required to be conducted by competitive sealed bidding.
- b) ~~The~~ Invitation for Bids (IFB):
- 1) Use. The ~~IFB Invitation for Bids~~ is used to initiate a competitive sealed bid procurement.
 - 2) Content. The ~~IFB Invitation for Bids~~ shall include, at a minimum, the following:
 - A) instructions and information to bidders concerning the bid submission requirements, including the time and date set for receipt of bids, the address of the office to which bids are to be

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delivered, the maximum time for bid acceptance by the State, and any other special information;

- B) the purchase description, evaluation factors, delivery or performance schedule, and ~~such~~ inspection and acceptance requirements ~~as are~~ not included in the purchase description; and
- C) the contract terms and conditions, including warranty and bonding or other security requirements, as applicable.

- 3) Incorporation by Reference. The ~~IFB Invitation for Bids~~ may incorporate documents by reference provided that the ~~IFB Invitation for Bids~~ specifies where ~~those such~~ documents can be obtained.

- c) ~~Bidding Time:~~
Bidding time is the period of time between the date of notice or distribution of the ~~IFB Invitation for Bids~~ and the time and date set for receipt of bids. In each case, bidding time will be set to provide bidders a reasonable time to prepare their bids. A minimum of 14 days shall be provided unless a shorter time is authorized by the Code or this Part.

- d) ~~Bidder Submissions:~~

- 1) Bid Form. The ~~IFB Invitation for Bids~~ may provide a form that shall include space in which the bid price shall be inserted and that the bidder shall sign and submit along with all other necessary submissions.

- 2) Bid Samples and Descriptive Literature.

- A) Bid samples or descriptive literature may be required when necessary to evaluate required characteristics of the items bid.

- B) Unsolicited bid samples or descriptive literature is submitted at the bidder's risk, may not be examined or tested, will not be deemed to vary any of the provisions of the ~~IFB Invitation for Bids~~, and may not be utilized by the vendor to contest a decision or understanding with the State.

- e) ~~Public Notice:~~

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- 1) Publication. Every procurement for ~~supplies~~goods and services in excess of the small purchase limit that must be procured using an ~~IFB~~Invitation for Bids shall be publicized in the next available issue of the Illinois Procurement Bulletin.
 - 2) Public Availability. A copy of the ~~IFB~~Invitation for Bids shall be made available for public inspection.
 - 3) ~~Distribution. Invitations for Bids or Notices of the Availability of Invitations for Bids may be mailed or otherwise furnished to a sufficient number of bidders for the purpose of securing competition. Notices of Availability shall indicate where Invitations for Bids may be obtained; generally describe the supply or service desired; and indicate the due date for bids; and may contain other appropriate information. When appropriate, the SPO may require payment of a fee or a deposit for supplying the Invitation for Bids.~~
- f) Pre-Bid Conference:
- 1) A pre-bid conference may be conducted to enhance understanding of the procurement requirements.
 - 2) The pre-bid conference shall be announced as a part of the ~~IFB~~Invitation for Bids notice.
 - 3) The conference may be designated as "attendance mandatory" or "attendance optional".
 - 4) The conference should be held long enough after the ~~IFB~~Invitation for Bids has been issued to allow bidders to become familiar with it, but sufficiently before bid opening to allow consideration of the conference results in preparing their bids.
 - 5) Nothing stated at the pre-bid conference shall change the ~~IFB~~Invitation for Bids unless a change is made by written amendment to the ~~IFB~~Invitation for Bids.
 - 6) Amendments shall be supplied to all those prospective bidders known to

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have received an ~~IFB Invitation for Bids~~.

7) If the conference is mandatory, the amendment shall be supplied to attendees only.

g) Amendments to Invitations for Bids:

1) Form. Amendments to ~~IFB~~ ~~Invitations for Bids~~ shall be clearly identified, ~~and~~ shall reference the portion of the IFB they amend ~~and shall be publicized in the next available issue of the Bulletin.~~

~~2) Distribution. Amendments shall be sent to all prospective bidders known to have received an Invitation for Bids.~~

23) Timeliness. Amendments shall be ~~made available~~ ~~distributed~~ within a reasonable time to allow prospective bidders to consider them in preparing their bids. If the time and date set for receipt of bids will not permit such ~~consideration~~ ~~preparation~~, the amendment shall extend the response time. If necessary, the response time may be extended by ~~publication in the next available issue of the Bulletin~~ ~~fax or telephone and confirmed in the amendment.~~

h) Pre-Opening Modification or Withdrawal of Bids:

1) Procedure. Bids may be modified or withdrawn by written notice received in the office designated in the ~~IFB Invitation for Bids~~ prior to the time and date set for bid opening. A fax modification or withdrawal, or withdrawal received by telephone prior to the time and date set for bid opening, will be effective if followed in writing.

~~2) Disposition of Bid Security. If a bid is withdrawn in accordance with this Section, the bid security, if any, shall be returned to the bidder.~~

23) Records. All documents relating to the modification or withdrawal of bids shall be made a part of the appropriate procurement file.

i) Receipt, Opening and Recording of Bids:

1) Receipt. Upon its receipt, each bid and modification shall be time-

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stamped but not opened and shall be stored in a secure place until the time and date set for bid opening. If a bid is opened in error, the file shall so state.

2) Opening and Recording-

A) Bids and modifications shall be opened publicly at the time, date, and place designated in the ~~IFB Invitation for Bids~~. Opening shall be witnessed by a State employee or any other person present, but the person opening bids shall not serve as witness. The name of each bidder, the bid price, and such other information as is deemed appropriate by the ~~Procurement Officer~~ SPO shall be recorded and the name of each bidder read aloud or otherwise made available. The names of witnesses shall also be recorded at the opening.

B) The winning bid shall be available for public inspection after award, along with the record of each unsuccessful bid.

3) Confidential Data. The ~~Procurement Officer~~ SPO shall examine the bids to determine the validity of any requests for nondisclosure of trade secrets and other proprietary data identified in writing. If the parties do not agree as to the disclosure of data or other information, the bid shall be rejected as nonresponsive.

j) Bid Evaluation and Award-

1) General. The contract is to be awarded to the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the ~~IFB Invitation for Bids~~, except as permitted in the Code and this Part. The ~~IFB Invitation for Bids~~ shall set forth the requirements and criteria that will be used to determine the lowest responsive bidder. No bid shall be evaluated for any requirements or criteria that are not disclosed in the ~~IFB Invitation for Bids~~.

2) Responsibility. Responsibility of prospective vendors is covered by Section 1120.2046 (Responsibility) of this Part.

3) Responsiveness. A bid must conform in all material respects to the ~~IFB Invitation for Bids~~.

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- A) Product or Service Acceptability. The ~~IFB Invitation for Bids~~ shall set forth any evaluation criteria to be used in determining product or service acceptability. It may require the submission of bid samples, descriptive literature, technical data, references, licenses, or other information or material. It may also provide for accomplishing any of the following prior to award:
- i) inspection or testing of a product or service prior to award for such characteristics as quality or workmanship;
 - ii) examination of such elements as appearance, finish, taste, or feel;
 - iii) other examinations to determine whether the product or service conforms with any other purchase description requirements.
- B) The acceptability evaluation is not conducted for the purpose of determining whether one bidder's product or service capability is superior to another, but only to determine that a bidder's offering is acceptable as set forth in the ~~IFB Invitation for Bids~~. Any bidder's offering that does not meet the acceptability requirements shall be rejected.
- 4) Determination of Lowest Bidder. Following determination of product or service acceptability as set forth in this subsection (j), bids will be evaluated to determine which bidder offers the lowest cost to the State in accordance with the evaluation criteria set forth in the ~~IFB Invitation for Bids~~. Only objectively measurable ~~such~~ criteria that are set forth in the ~~IFB Invitation for Bids~~ shall be applied in determining the lowest bidder. Examples of ~~objectively measurable~~ ~~such~~ criteria include, but are not limited to, transportation cost and ownership or life-cycle cost formulas. Evaluation factors need not be precise predictors of actual future costs, but to the extent possible ~~such~~ evaluation factors shall be reasonable estimates based upon information the IOC has available concerning future use and shall treat all bids equitably. Pricing for optional supplies or services, or for renewal terms, ~~may~~ ~~shall~~ not be considered, particularly when the pricing for the items or terms is unbalanced when compared to other

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pricing in the bid.

- 5) Price Negotiation. This Section permits negotiations with the low bidder to obtain a lower price for the item bid.
- k) Documentation of Award:-
Following award, a record showing the successful bidder shall be made a part of the procurement file.
- l) Award to Other Than Low Bidder:-
- 1) The ~~CPOSP~~ may award to other than the lowest responsible and responsive bidder upon a written determination that award to another bidder is in the State's best interest. The written explanation must be published in the appropriate volume of the Bulletin.
 - 2) The name of the bidder selected, pricing, and the reasons for selecting this bidder instead of the low bidder must be published in the appropriate volume of the Bulletin.
 - 3) The explanation must include:
 - A) a description of the needs of IOC;
 - B) a determination that the anticipated cost will be fair and reasonable;
 - C) a listing of all reasonable and responsive bidders; and
 - D) the name of the bidder selected, the pricing and the reasons for selecting that bidder.
 - 4) The explanation shall be filed with the Legislative Audit Commission and the IOC PPB.
- m) Publicizing Award:-
- 1) The successful bidder shall be notified of award and ~~the such~~ notification may be in the form of a letter, purchase order or other clear

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communication.

- 2) In procurements over the small purchase limit set in Section 1120.2020(~~Small Purchases~~), notice of award shall be published in the next available issue of the Bulletin.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.2012 Multi-Step Sealed Bidding

- a) ~~Definition-~~
Multi-step sealed bidding is a two-phase process consisting of a technical first phase composed of one or more steps in which bidders submit unpriced technical offers to be evaluated by the IOC, and a second phase in which those bidders whose technical offers are determined to be acceptable during the first phase have their price bids considered.
- b) ~~Conditions for Use-~~
The multi-step sealed bidding method may be used when it is not practical to prepare initially a definitive purchase description that will be suitable to permit an award based on price. Multi-step sealed bidding may be used when it is considered desirable:
- 1) to invite and evaluate possible diverse technical offers to determine their acceptability to fulfill the purchase description requirements; and
 - 2) to conduct discussions for the purposes of facilitating understanding of the technical offer and purchase description requirements and, when where appropriate, obtain supplemental information, permit amendments of technical offers, or amend the purchase description.
- c) ~~Pre-Bid Conferences in Multi-Step Sealed Bidding-~~
Prior to the submission or evaluation of unpriced technical offers, a pre-bid conference as contemplated by Section 1120.2010(f) (Pre-Bid Conference) may be conducted by the CPOSPQ.
- d) ~~Procedure for Phase One of Multi-Step Sealed Bidding-~~
- 1) Form. Multi-step sealed bidding shall be initiated by the issuance of an

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~~IFB Invitation for Bids~~ in the form required by Section 1120.2010 (Competitive Sealed Bidding), except as provided in this Section. In addition to the requirements set forth in Section 1120.2010, the multi-step ~~IFB Invitation for Bids~~ shall state:

- A) that unpriced technical offers are requested;
 - B) whether priced bids are to be submitted at the same time as unpriced technical offers; if they are, such priced bids shall be submitted in a separate sealed envelope;
 - C) that it is a multi-step sealed bid procurement, and priced bids will be considered only in the second phase and only from those bidders whose unpriced technical offers are found acceptable in the first phase;
 - D) the criteria to be used in the evaluation of the unpriced technical offers;
 - E) that the IOC, to the degree the ~~CPOSPO~~ finds necessary, may conduct oral or written discussions of the unpriced technical offers;
 - F) that the item being procured shall be furnished generally in accordance with the bidder's technical offer as found to be finally acceptable and shall meet the requirements of the ~~IFB Invitation for Bids~~.
- 2) Amendments to the ~~IFB Invitation for Bids~~. After receipt of unpriced technical offers, amendments to the ~~IFB Invitation for Bids~~ shall be distributed only to bidders who submitted unpriced technical offers, and they shall be permitted to submit new unpriced technical offers or to amend those submitted. If, in the opinion of the ~~CPOSPO~~, a contemplated amendment will significantly change the nature of the procurement, the ~~IFB Invitation for Bids~~ may be canceled in accordance with Section 1120.2040 (Cancellation of Solicitation; Rejection of Bids or Proposals) and a new ~~IFB Invitation for Bids~~ issued.
 - 3) Receipt and Handling of Unpriced Technical Offers. Unpriced technical offers submitted by bidders shall be opened in the presence of at least one

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witness. ~~The~~~~Such~~ offers shall not be disclosed to unauthorized persons. Bidders may request nondisclosure of trade secrets and other proprietary data identified in writing.

4) Evaluation of Unpriced Technical Offers.

~~A)~~ The unpriced technical offers submitted by bidders shall be evaluated solely in accordance with the criteria set forth in the ~~IFB~~~~Invitation for Bids~~. The unpriced technical offers shall be categorized as:

~~i)~~A) acceptable;

~~ii)~~B) potentially acceptable, that is, reasonably susceptible of being made acceptable; or

~~iii)~~C) unacceptable, in which case the ~~Procurement Officer~~~~SPO~~ shall record in writing the basis for finding an offer unacceptable and make it part of the procurement file.

~~B)~~ The ~~CPO~~~~SPO~~ may initiate phase two of the procedure if, in the ~~CPO's~~~~SPO's~~ opinion, there are sufficient acceptable unpriced technical offers to assure effective price competition in the second phase without technical discussions. If the ~~CPO~~~~SPO~~ finds that such is not the case, the ~~CPO~~~~SPO~~ may commence discussions of the unpriced technical proposals.

5) Discussion of Unpriced Technical Offers. The ~~Procurement Officer~~~~SPO~~ may conduct discussions with any vendor who submits an acceptable or potentially acceptable technical offer. During the course of ~~the~~~~such~~ discussions, the ~~Procurement Officer~~~~SPO~~ shall not disclose any information derived from one unpriced technical offer to any other bidder. Any such bidder may submit supplemental information amending its technical offer at any time until the closing date established by the ~~Procurement Officer~~~~SPO~~. ~~The~~~~Such~~ submission may be made at the request of the ~~Procurement Officer~~~~SPO~~ or upon the bidder's own initiative.6) Unacceptable Unpriced Technical Offer. When the ~~CPO~~~~SPO~~ determines a bidder's unpriced technical offer to be unacceptable, ~~the~~~~such~~ offeror shall

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not be afforded an additional opportunity to supplement its technical offer.

- e) Procedure for Phase Two:
- 1) Initiation. Upon the completion of phase one, the ~~CPO~~ shall either:
 - A) open priced bids submitted in phase one (if priced bids were required to be submitted) from bidders whose unpriced technical offers were found to be acceptable; or
 - B) if priced bids have not been submitted, invite each acceptable bidder to submit a priced bid.
 - 2) Conduct. Phase two shall be conducted as any other competitive sealed bid procurement except:
 - A) no public notice need be given of this invitation to submit priced bids because ~~such~~ notice was previously given;
 - B) after award, the unpriced technical offer of the successful bidder shall be disclosed as follows: The ~~Procurement Officer~~ shall examine written requests of confidentiality for trade secrets and proprietary data in the technical offer of ~~the~~ bidder to determine the validity of any such requests. If the parties do not agree as to the disclosure of data, the ~~CPO~~ shall reject the offer. ~~The~~ technical offer shall be open to public inspection subject to any continuing prohibition on the disclosure of confidential data; and
 - C) unpriced technical offers of bidders who are not awarded the contract shall not be open to public inspection.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.2015 Competitive Sealed Proposals

- a) Conditions for Use
When provided for under the Code or under this Part, or when the IOC determines in writing that the use of competitive sealed bidding is either not practicable or

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not advantageous to the IOC, a contract may be entered into by competitive sealed proposals.

- b) Request for Proposals (RFP)
Proposals shall be solicited through an RFP.
- c) Public Notice
Public notice of the RFP shall be published in the Bulletin at least 14 days prior to the date set in the RFP for the opening of proposals.
- d) Receipt of Proposals
Proposals shall be opened publically in the presence of one or more witnesses at the time and place designated in the RFP, but proposals shall be opened in a manner to avoid disclosure of contents to competing offerors during the process of negotiation. A record of proposals shall be prepared and shall be open for public inspection after the contract is awarded.
- e) Evaluation Factors
The RFP shall state the relative importance of price and other evaluation factors. Proposals shall be submitted in 2 parts: the first covering items except price and the second concerning price. The first part of all proposals shall be evaluated and ranked independently of the second part of all proposals.
- f) Discussion with Responsible Offerors and Revisions of Proposals
As provided in the RFP and this Part, discussion may be conducted with responsible offerors who submit proposals determined to be reasonably susceptible of being selected for award for the purpose of clarifying and assuring full understanding of and responsiveness to the solicitation requirements. Those offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals. Revisions may be permitted after submission and before award for the purpose of obtaining Best & Final offers. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors. If information is disclosed to any offeror, it shall be provided to all competing offerors.
- g) Award
Awards shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the IOC, taking into consideration the

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price and the evaluation factors set forth in the RFP. The contract file shall contain the basis on which the award is made.

- a) ~~Competitive sealed proposals may be used whenever permitted by the Code and as described in this Section.~~
- b) ~~The competitive sealed proposal method of source selection may be used to procure the following categories (note that the following services, if they are professional and artistic, must be procured pursuant to Section 1120.2035 of this Part):~~
 - 1) ~~electronic data processing equipment, software, and services;~~
 - 2) ~~telecommunications equipment, software, and services;~~
 - 3) ~~consulting services; and~~
 - 4) ~~employee benefits and management of those benefits.~~
- e) ~~Competitive sealed proposals may be used on a case-by-case basis when it is determined that competitive sealed bidding is either not practicable or advantageous.~~
 - 1) ~~"Practicable" Distinguished from "Advantageous". As used in Section 20-15 (Competitive Sealed Proposals) of the Illinois Procurement Code and this Section, the term "practicable" denotes what may be accomplished or put into practical application, and "advantageous" connotes a judgmental assessment of what is in the State's best interest. Competitive sealed bidding may be practicable, that is, reasonably possible, but not necessarily advantageous, that is, in the State's best interest. Before a procurement may be conducted by competitive sealed proposals, the SPO shall determine in writing that competitive sealed bidding is either not practicable or not advantageous to the State.~~
 - 2) ~~General Discussion.~~
 - A) ~~If competitive sealed bidding is not practicable or is not advantageous, competitive sealed proposals should be used.~~
 - B) ~~The key element in determining advantageousness is the need for~~

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~~flexibility. The competitive sealed proposal method differs from competitive sealed bidding in two important ways:~~

- ~~i) it permits discussions with competing offerors and changes in their proposals, including price; and~~
 - ~~ii) it allows comparative judgmental evaluations to be made when selecting among acceptable proposals for award of the contract.~~
- ~~C) When evaluation factors involve the relative abilities of offerors to perform, including degrees of experience or expertise, when the types of supplies or services may require the use of comparative, judgmental evaluations to evaluate them adequately, or when the type of need to be satisfied involves weighing aesthetic values to the extent that price is a secondary consideration, use of competitive sealed proposals is the appropriate procurement method.~~
- 3) ~~When Competitive Sealed Bidding Is Not Practicable. Competitive sealed bidding is not practicable unless the nature of the procurement permits award to a low bidder who agrees by its bid to perform without condition or reservation in accordance with the purchase description, delivery or performance schedule, and all other terms and conditions of the Invitation for Bids. Factors to be considered in determining whether competitive sealed bidding is not practicable include:~~
- ~~A) whether the contract needs to be other than a fixed-price type;~~
 - ~~B) whether oral or written discussions may need to be conducted with offerors concerning technical and price aspects of their proposals;~~
 - ~~C) whether offerors may need to be afforded the opportunity to revise their proposals, including price;~~
 - ~~D) whether award may need to be based upon a comparative evaluation, as stated in the Request for Proposals, of differing price, quality, and contractual factors in order to determine the most advantageous offering to the IOC. Quality factors include~~

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- ~~technical and performance capability and the content of the technical proposal; and~~
- E) ~~whether the primary consideration in determining award may not be price.~~
- 4) ~~When Competitive Sealed Bidding Is Not Advantageous.—A determination may be made to use competitive sealed proposals if it is determined that it is not advantageous to the IOC, even though practicable, to use competitive sealed bidding. Factors to be considered in determining whether competitive sealed bidding is not advantageous include:~~
- A) ~~if prior procurements indicate that competitive sealed proposals may result in more beneficial contracts for the IOC; and~~
- B) ~~whether the factors listed in subsection (c)(3) of this Section are desirable in conducting a procurement rather than necessary.~~
- d) ~~Content of the Request for Proposals.
The Request for Proposals shall be prepared in accordance with Section 1120.2010 (Competitive Sealed Bidding) provided that it shall also include:~~
- 1) ~~a statement that discussions may be conducted with offerors who submit proposals determined to be reasonably susceptible of being selected for award, but that proposals may be accepted without such discussions; and~~
- 2) ~~a statement of when and how price should be submitted.~~
- e) ~~Receipt and Registration of Proposals.~~
- 1) ~~Proposals and modifications shall be opened publicly at the time, date and place designated in the Request for Proposals.—Opening shall be witnessed by a State employee or by any other person present but the person opening proposals shall not serve as witness.—A record shall be prepared that shall include the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the supply or service item offered. The record of proposals shall be open to public inspection after award of the contract.~~

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- ~~2) Proposals and modifications shall be opened in a manner to avoid disclosing contents to competitors. Only State personnel and contractual agents may review the proposals prior to award.~~
- f) ~~Evaluation of Proposals.~~
- ~~1) Evaluation Factors in the Request for Proposals. The Request for Proposals shall state all of the evaluation factors, including price, and their relative importance.~~
- ~~2) Evaluation. The evaluation shall be based on the evaluation factors set forth in the Request for Proposals. Factors not specified in the Request for Proposals shall not be considered. Numerical rating systems may be used but are not required.~~
- ~~3) Classifying Proposals. For the purpose of conducting discussions, proposals shall be initially classified as:~~
- ~~A) acceptable;~~
- ~~B) potentially acceptable, that is, reasonably susceptible of being made acceptable; or~~
- ~~C) unacceptable.~~
- ~~Offerors whose proposals are unacceptable shall be so notified promptly.~~
- g) ~~Proposal Discussions with Individual Offerors.~~
- ~~1) "Offerors" Defined. For the purposes of Section 20-15(f) (Competitive Sealed Proposals, Discussion with Responsible Offerors and Revisions to Proposals) of the Illinois Procurement Code and of this Section, the term "offerors" includes only those businesses submitting proposals that are acceptable or potentially acceptable. The term shall not include businesses who submitted unacceptable proposals.~~
- ~~2) Purposes of Discussions. Discussions are held to:~~
- ~~A) promote understanding of the State's requirements and the offerors'~~

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~~proposals; and~~

- ~~B) facilitate arriving at a contract that will be most advantageous to the State, taking into consideration price and the other evaluation factors set forth in the Request for Proposals.~~
- ~~3) Conduct of Discussions. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. If during discussions there is a need for any substantial clarification of, or change to, the Request for Proposals, the Request shall be amended to incorporate such clarification or change. Auction techniques (revealing one offeror's price to another) and disclosure of any information from competing proposals are prohibited. Any substantial oral clarification of a proposal shall be reduced to writing by the offeror.~~
- ~~4) Best and Final Offers. The SPO may request best and final offers from those offerors deemed acceptable after completion of any discussions. Best and final offers shall be submitted by a specified date and time. The SPO may conduct additional discussions or change the IOC's requirements and require another submission of best and final offers. If an offeror does not submit either a notice of withdrawal or another best and final offer, that offeror's immediate previous offer will be construed as its best and final offer.~~
- ~~h) Award.
An award shall be made by the SPO pursuant to a written determination showing the basis on which the award was found to be most advantageous to the State, based on the factors set forth in the Request for Proposals.~~
- ~~i) Publicizing Awards.
After a contract is awarded, notice of award shall be posted in the SPO's office. When the award exceeds the small purchase limit set in Section 1120.2020 of this Part, notice of award shall be published in the Bulletin.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.2020 Small Purchases

- ~~a) Application~~

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- 1) Procurements of \$33,500 or less for supplies or services, including those for professional and artistic services, and of \$40,100 or less for construction, may be made without advance notice, competition or use of any prescribed method of source selection.
- 2) Any change identified by the United States Department of Labor in the Consumer Price Index for All Urban Consumers for the period ending December 31, 1998, and for each year thereafter, shall be used to calculate the small purchase maximums that shall be applicable for the fiscal year beginning July 1, 1999. The small purchase maximums shall be likewise recalculated for each July 1 thereafter. Changes to the small purchase maximums can be found on the Illinois Procurement Policy Board website (ppb.illinois.gov) and are updated annually.
- b) In determining whether a contract is under the limit, the stated value of the supplies or services, plus any optional supplies and services, determined in good faith, shall be utilized. When the value is calculated month-to-month or in a similar fashion, the amount shall be calculated for a 12 month period.
- c) If only a unit price or hourly rate is known, the contract shall be considered small and shall have a not to exceed limit applicable to the type of procurement (see subsection (a)).
- d) If, after signing the contract, the actual cost of completing the contract is determined to exceed the small purchase amount, and the CPO determines that a supplemental procurement is not economically feasible or practicable because of the immediacy of the agency's needs or other circumstances, the Procurement Officer must follow the procedures for sole source or emergency procurement, whichever is applicable, to complete the contract.
- e) Notice of award shall be published in the Bulletin no later than 10 business days after the contract is awarded.
- a) Application.
- 1) ~~Procurements of supplies or services that cost less than the small purchase limit, other than professional and artistic, may be made without notice, competition or use of any prescribed method of source selection.~~

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- ~~2) Procurements of less than \$20,000 for professional and artistic services and that have a non-renewable term of one year or less may be made without notice, competition or use of any prescribed method of source selection.~~
- ~~b) In determining whether a contract is under the limit, the value of the contract for the full term and all optional renewals shall be utilized. The stated value of the goods or services, plus any optional goods and services, shall be utilized. When the term is calculated month-to-month or in a similar fashion, the amount shall be calculated for a twelve month period.~~
- ~~e) Procurement requirements shall not be artificially divided to avoid using the other source selection methods set forth in Section 20-5 of the Illinois Procurement Code.~~
- ~~d) If, after signing the contract, the actual need is determined to exceed the small purchase limit, and the IOC determines that reprocurement is not appropriate, the procedures for sole source or emergency procurement, whichever is applicable, must be complied with to obtain additional supplies or services.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.2025 Sole Economically Feasible Source Procurement

- a) ~~Application-~~
The provisions of this Section apply to procurement from a sole economically feasible source (referred to as sole source) unless the estimated amount of the procurement is within the limit set in Section 1120.2020 (~~Small Purchases~~) or unless emergency conditions exist as defined in Section 1120.2030 (~~Emergency Procurements~~).
- b) ~~Conditions for Use of Sole Source Procurement-~~
Sole source procurement is permissible when a requirement is available from only a single supplier or when only one supplier is deemed economically feasible. A requirement for a particular proprietary item does not justify a sole source procurement if there is more than one potential bidder or offeror authorized to provide that item. The following are examples of circumstances that could necessitate sole source procurement:

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- 1) the compatibility of equipment, accessories, replacement parts, or service is a paramount consideration;
 - 2) a sole supplier's items are needed for trial use or testing;
 - 3) a sole supplier's item is to be procured for commercial resale;
 - 4) public utility regulated services are to be procured;
 - 5) the item is copyrighted or patented and the item or service is not available except from the holder of the copyright or patent; ~~and~~
 - 6) the procurement is of media and advertising;
 - 7) the procurement is of art or entertainment services; and
 - 8) existing contracts are being changed (see subsection (c)).
 - ~~6) extending an existing contract for such period of time as is needed to conduct a competitive method of source selection where terminating or allowing the contract to terminate would not be advantageous to the State.~~
- c) Changes-
- 1) Changes to an existing contract that are germane and reasonable in scope and cost in relation~~Changes to existing contracts germane~~ to the original contract or program, that are necessary or desirable to complete the contract or program, project and that can be best accomplished by the contract holder may be procured under this Section when the CPO determines that the cost of delay or disruption to the contract or program, and the cost of new solicitation, clearly indicate that the existing vendor is the sole economically feasible source.
 - 2) A change (whether in cost or rate) that does not exceed the applicable small purchase limit as defined in Section 1120.2020 ~~of this Part~~ or that is an emergency as defined in Section 1120.2030 ~~of this Part~~, may be made in accordance with procedures governing those Sections and need not comply with these sole source procedures. A change in the length of the contract that does not exceed 30 days and other minor, immaterial changes

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to the scope or administrative provisions of a contract shall not be considered changes subject to these sole source procedures.

- d) ~~CPO~~SPO to Determine-
- 1) The determination as to whether a procurement shall be made as a sole source shall be made by the ~~CPO~~SPO. ~~The~~Such determination and the basis ~~for the determination~~therefore shall be in writing. ~~The CPO~~Such ~~officer~~ may specify the application of ~~the~~such determination and the duration of its effectiveness.
 - 2) Any purchase request submitted to the ~~CPO suggesting~~SPO that a procurement be restricted to one potential vendor shall be accompanied by an explanation as to why no other vendor will be suitable or acceptable to meet the need.
- e) Publication of Sole Source Notice-
- The ~~CPO Purchasing Agency~~ shall publish in the Bulletin notice of intent to contract with that vendor at least 14 days prior to execution of the contract.
- 1) If no challenge to this determination is made by a vendor within the 14 day period, the ~~CPO~~SPO may execute a contract with that vendor.
 - 2) If a challenge is received, the ~~Procurement Officer~~SPO shall consider the information and shall commence a competitive procurement if the ~~CPO determines that more than one economically feasible source may be available and~~SPO ~~is convinced~~ the sole source designation is, ~~therefore~~, not appropriate, unless an emergency situation ~~now~~ exists.
- f) Negotiation in Sole Source Procurement-
- The ~~Procurement Officer~~SPO shall conduct negotiations, as appropriate, to reach contract terms, including price, and shall maintain a record of each sole source procurement showing:
- 1) the vendor's name;
 - 2) the amount and type of the contract; ~~and~~
 - 3) a listing of the supplies, services, or construction procured under each

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contract ~~;~~ and

4) ~~the identification number of the contract file.~~

g) Prohibition Against Amending a Contract for Professional or Artistic Services
The provisions of this Part shall not apply to an amendment to a contract for professional or artistic services if:

- 1) there is an increase in the amount paid under the contract of more than 5% of the initial award; or
- 2) the term of the contract would extend by a period not to exceed the time reasonably needed for a competitive procurement or 2 months, whichever is less.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.2030 Emergency Procurements

a) Applications:

The provisions of this Section apply to every procurement over the small purchase limit set in Section 1120.2020 ~~(Small Purchases)~~, that is not a sole source procurement under Section 1120.2025, made under emergency conditions.

b) Definition of Emergency Conditions:

Procurements may be made under this Section ~~1120.2030~~ in the following circumstances:

1) Traditional circumstances include but are not limited to:

- A) public health or safety, including the health or safety of any particular person, is threatened;
- B) repairs to IOC property are needed to protect against further loss or damage to IOC property, or to prevent loss or damage to IOC property;
- C) action is needed to prevent or minimize serious disruption in State services;

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- D) action is needed to ensure the integrity of State records;
 - E) a supplier of goods or services announces bankruptcy, going out of business, or loss of franchise, or gives other similar reason such that making a purchase immediately is in the State's best interest;
 - F) items are available on the spot market or at discounted prices available for a limited time such that good business judgment mandates a purchase immediately to take advantage of the availability and price;
 - G) legal services to assist an agency in the formulation of policy, in drafting or evaluating documents, or in determining the extent of statutory authority that are needed sooner than the competitive process would allow;
 - H) the need for items to protect or further State interests is immediate and use of other competitive source selection procedures under the Code and this Part cannot be accomplished without significant risk of causing serious disadvantage to the State; immediate action is needed to protect the interests of the State; or
 - I) extending a contract is needed to conduct a competitive method of source selection;-
 - J) immediate action is necessary to avoid lapsing or loss of federal or donated funds; or
 - K) immediate action is necessary to protect the collection of State revenue.
- 2) After Unsuccessful Competitive Sealed Bidding or Proposals or Request for Proposals. When bids or proposals received pursuant to a competitive sealed bid or competitive sealed proposal method are unreasonable or noncompetitive, or the price exceeds available funds, and time or other circumstances will not permit the delay required to resolicit competitive sealed bids or proposals, and if emergency conditions exist after an unsuccessful attempt to use competitive sealed bidding, an emergency

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procurement may be made.

- 3) Extension to Allow Competition. Extending an existing contract for such period of time as is needed to conduct a competitive method of source selection where terminating or allowing the contract to terminate would not be advantageous to the State.

- 4) Quick Purchase

A) A supplier announces bankruptcy, cessation of business, or loss of franchise, or gives other similar reason such that making a purchase immediately is more advantageous to the State than instituting a competitive procurement under the provisions of this Code for the supplies or services;

B) Items are available on the spot market or at discounted prices for a limited time so that good business judgment mandates a purchase immediately to take advantage of the availability and price;

~~C) availability of rare items such as books of historical value;~~

~~D) the procurement is for entertainment.~~

- c) Scope of Emergency Conditions-

1) Emergency procurement shall be limited to ~~the~~those supplies or services, quantity and term reasonably necessary to meet the emergency.

2) Emergency procurements shall be limited to the time reasonably needed for a competitive procurement, but in no event shall that time exceed 90 days unless the CPO determines additional time is needed.

3) In the event an emergency procurement exceeds 90 days, the contract scope and duration may be extended. The extension shall be limited in items, quantity and days.

- d) Authority to Make Emergency Procurements-

Authority to make emergency procurements is established by subsection (c)Emergency procurements may be made when an emergency condition arises

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~~and the need cannot be met through normal procurement methods~~, provided that, whenever practical, existing IOC contracts shall be utilized and, whenever practical, approval by the ~~CPO~~~~SPO~~ shall be obtained prior to the procurement. The CPO ~~or SPO~~ shall be responsible for making the filings required in Section 20-30 of the Code.

- e) ~~Source Selection Methods-~~
Any method of source selection, whether or not identified in the Code or this Part, may be used to conduct the procurement in emergency situations. Such competition as is practicable shall be obtained.
- f) ~~Determination and Record of Emergency Procurement-~~
- 1) ~~Determination.~~ The CPO ~~or SPO~~ shall make a written determination stating the basis for an emergency procurement and for the selection of the particular contractor. ~~The Such~~ determinations shall be kept in the contract file ~~with a copy sent promptly to the CPO.~~
 - 2) ~~Record.~~ An affidavit of each emergency procurement shall be filed by the CPO with the IOC PPB and the Auditor General within 10 days after the procurement made as soon as practicable and shall include the following information:
 - A) the vendor's name;
 - B) the amount and type of the contract (if only an estimate of the amount is available immediately, the record shall be supplemented with the final amount once known);
 - C) a description of what the vendor will do or provide;
 - D) the reasons for using the emergency method of source selection.
 - 3) Notice of the emergency procurement shall be published in the Bulletin in accordance with Subpart D of this Part.
- g) Extensions of Emergencies
In the event an emergency procurement exceeds 90 days, the emergency procurement may be extended. Prior to the execution of the extension:

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- 1) the CPO must determine additional time is necessary;
- 2) the contract scope and duration must be limited to the emergency;
- 3) a public hearing must be held;
- 4) the CPO must provide written justification for the emergency contract; and
- 5) notice of the intent to extend shall be provided to the IOC PPB and published in the Bulletin in accordance with Subpart D.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.2035 Competitive Selection Procedures for Professional and Artistic Services

a) Application-

- 1) The provisions of this Section apply to every procurement of professional and artistic services except those professional and other services necessary to prepare for anticipated litigation, enforcement actions, or investigations, which are exempt from the requirements of the Code and this Part and except as provided in Section 1120.2020 and in subsection (c) of this Section~~Section 1120.2035(e)~~.
- 2) *"Professional and artistic services" means those services provided under contract to a State agency by a person or business, acting as an independent contractor, qualified by education, experience, and technical ability [30 ILCS 500/1-15.60].*

~~b) Professional and artistic services are further defined below:~~

- ~~1) "Qualified by education" means the individual who would perform the services must have obtained the level of education specified in the Request for Proposals.~~
- ~~2) "Qualified by experience" means the individual who would perform the services must have the level of general experience specified in the Request for Proposals.~~

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- ~~3) "Qualified by technical ability" means the individual who would perform the services must previously have successfully performed services of similar nature to those specified in the Request for Proposals.~~
 - ~~4) Essential elements distinguishing professional services from other services are confidence, trust, and belief in not only the ability, but the talent, of the individual performing the service.~~
 - ~~5) Professional and artistic services are primarily for intellectual or creative skills. Contracts for services primarily involving manual skills or labor are not professional services contracts.~~
 - ~~6) When the IOC requires services that meet the above requirements, then the services are professional and these competitive selection procedures must be followed. Otherwise the services must be procured in accordance with the other methods of source selection authorized by the Code and this Part.~~
- ~~e) Conditions for Use of Competitive Selection Procedures:
Except as authorized under Section 20-25 (Sole Source Procurement) or Section 20-30 (Emergency Procurements) of the Code, these competitive selection procedures shall be used for all procurements of professional and artistic services of \$20,000 or more. Any procurement of such services less than \$20,000 and for a nonrenewable term of one year or less may be procured in accordance with Section 1120.2020 (Small Purchases).~~
- ~~d) Prequalification:
The Comptroller's Director of Administrative Services may maintain a list of prequalified professional and artistic vendors in accordance with Sections 1120.2044 and 1120.2045 of this Part. Persons may amend statements of qualification at any time by filing a new statement.~~
- be) Public Notice of Competitive Selection Procedures:
- 1) Notice of the need for professional and artistic services shall be made by the CPO ~~or SPO~~ in the form of ana RFP ~~Request for Proposals~~.
 - 2) Notice shall be given as provided in Section 1120.2010(e) ~~(Public Notice) of this Part~~.

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- 3) Notice shall also be distributed to prequalified persons interested in performing the services required by the proposed contract.

~~c)F~~ Request for Proposals:

- 1) Contents. The ~~RFP~~Request for Proposals shall be in the form specified by the ~~CPO~~SPO and shall contain at least the following information:
- A) the type of services required;
 - B) a description of the work involved;
 - C) an estimate of when and for how long the services will be required;
 - D) the type of contract to be used;
 - E) a date by which proposals for the performance of the services shall be submitted;
 - F) a statement of the minimum information that the proposal shall contain, which may include, but is not limited to:
 - i) the name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;
 - ~~ii) if deemed relevant by the SPO, the age of the offeror's business and average number of employees over a previous period of time, as specified in the Request for Proposals;~~
 - ~~iii) the abilities, qualifications, and experience of all persons who would be assigned to provide the required services;~~
 - ~~iiii) a listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time, as specified in the ~~RFP~~Request for Proposals;~~

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- ~~iv~~) a plan giving as much detail as is practical explaining how the services will be performed;
- G) price (to be submitted in a separate envelope in the proposal package and not mentioned elsewhere in the proposal package); and
- H) the factors to be used in the evaluation and selection process and their relative importance.
- 2) Evaluation. Proposals shall be evaluated only on the basis of evaluation factors stated in the ~~RFP~~ Request for Proposals. Price will not be evaluated until ranking of all proposals and identification of the most qualified vendor. The relative importance of the evaluation factors will vary according to the type of services being procured. The minimum factors are:
- A) the plan for performing the required services;
- B) ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;
- C) the personnel, equipment, and facilities to perform the services currently available or demonstrated to be made available at the time of contracting; and
- D) a record of past performance of similar work.
- ~~d)g)~~ Pre-Proposal Conference-
A pre-proposal conference may be conducted in accordance with Section 1120.2010(f) ~~(Pre-Bid Conference)~~. ~~The Such a~~ conference may be held at any time any time prior to the date established for submission of proposals.
- ~~e)h)~~ Receipt and Handling of Proposals-
- 1) Proposals and modifications shall be sent to the ~~CPO~~ ~~SP~~ as directed in the solicitation and shall be time-stamped upon receipt and held in a

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secure place until the due date and time, at which they will be opened by the Procurement Officer~~SPO~~.

- 2) Proposals shall not be opened publicly nor disclosed to unauthorized persons, but shall be opened in the presence of at least one witness.
- 3) A register of proposals shall be established that shall include, for all proposals, the name of each offeror, the number of modifications received, if any, and a description sufficient to identify the services offered.
- 4) The register of proposals shall be open to the public only after award of the contract.

~~f)h~~ Discussions-

1) Discussions Permissible-

A) The Procurement Officer~~SPO~~ may conduct discussions with any offeror to:

iA) determine in greater detail ~~thesueh~~ offeror's qualifications; and

iiB) explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance, and the relative utility of alternative methods of approach.

B) The CPO~~SPO~~ may allow changes to the proposal based on those discussions.

- 2) No Disclosure of Information. Discussions shall not disclose any information derived from proposals submitted by other offerors, and the agency conducting the procurement shall not disclose any information contained in any proposals until after award of the proposed contract has been made. The proposal of the offeror awarded the contract shall be open to public inspection except as otherwise provided in the contract.

~~g)h~~ Selection of the Best Qualified Offerors-

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After conclusion of validation of qualifications, evaluation, and discussion, the ~~CPO~~~~SPO~~ shall rank the acceptable offerors in the order of their respective qualifications.

~~h)k)~~ Evaluation of Pricing Data-

Pricing submitted for all proposals timely submitted shall be opened and ranked.

- 1) If the low price is submitted by the most qualified vendor, ~~the CPO may award to that vendor~~~~negotiation of price shall commence~~.
- 2) If the price of the most qualified vendor is not low and if it is under \$25,000, the CPO ~~or the SPO~~ may award to that vendor.
- 3) If the price is over \$25,000, the CPO ~~or SPO~~ must state why the qualifications were deemed more important than price and ~~that such~~ determination shall be published in the next available issue of the Bulletin.

~~i)j)~~ Negotiation and Award of Contract-

- 1) General. The ~~Procurement Officer~~~~CPO or SPO~~ shall attempt to negotiate a contract with the best qualified offeror for the required services at ~~compensation determined in writing to be~~ fair and reasonable compensation. The Procurement Officer may, in the interest of efficiency, negotiate with other vendors while negotiating with the best qualified vendor.
- 2) Elements of Negotiation. Contract negotiations shall be directed toward:
 - A) making certain that the offeror has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services;
 - B) determining that the offeror will make available the necessary personnel and facilities to perform the services within the required time; and
 - C) agreeing upon compensation that is fair and reasonable, taking into account the estimated value of the required services, and the scope, complexity, and nature of ~~these~~ services.

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3) Request for Nondisclosure of Data:

A) If the offeror selected for award has requested in writing the nondisclosure of trade secrets and other proprietary data so identified, the head of the agency conducting the procurement or a designee of such officer shall examine the request in the proposal to determine its validity prior to entering negotiations.

B) If the parties do not agree as to the disclosure of data in the contract, the ~~CPO~~SPO shall reject the proposal.

4) Successful Negotiation of Contract with Best Qualified Offeror:

A) If compensation, contract requirements, and contract documents can be agreed upon with the best qualified offeror, the contract shall be awarded to that offeror, unless the procurement is canceled.

B) Compensation must be determined in writing to be fair and reasonable. Fair and reasonable compensation shall be determined by the CPO based on the circumstances of the particular procurement, including but not limited to the nature of the services needed, qualifications of the offerors, consideration of the range of prices received in the course of the procurement, and the agency's identified budget.

5) Failure to Negotiate Contract with Best Qualified Offeror:

A) If compensation, contract requirements, and contract documents cannot be agreed upon with the best qualified offeror, a written record stating the reasons therefore shall be placed in the file. The ~~Procurement Officer~~SPO shall advise ~~the~~such offeror of the termination of negotiations.

B) Upon failure to negotiate a contract with the best qualified offeror, the ~~Procurement Officer~~SPO may enter into negotiations with the next most qualified offeror, and so on in that manner until an award is made or the procurement canceled.

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- ~~j)m)~~ Multiple Awards-
The Procurement Officer may enter into negotiations with the next most qualified vendor or vendors when the purchasing agency has a need that requires multiple vendors under contract.
- ~~k)n)~~ Notice of Award-
Written notice of award shall be public information and made a part of the contract file. The ~~CPO~~~~SPO~~ shall publish ~~the names of the responsible decision makers of the IOC~~, the successful vendor, a contract reference number or other identifier, and the value of the contract. Publication shall be in the next available issue of the Bulletin.
- ~~l)o)~~ ~~The CPO may publish notices of small~~~~Small~~, sole source and emergency procurements of professional and artistic services under the jurisdiction of ~~the CPO~~~~an SPO do not require approval of the CPO to proceed. Any notices shall be published by the SPO.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.2036 Other Methods of Source Selection

- a) Split Award-
- 1) An award of a definite quantity requirement may be split between bidders or offerors. Each portion shall be for a definite quantity and the sum of the portions shall be the total definite quantity required. A split award may be used only when award to more than one bidder or offeror for different amounts of the same item are necessary to obtain the total quantity or the required delivery.
 - 2) The ~~CPO~~~~SPO~~ shall make a written determination setting forth the reasons for the split award, which determination shall be made a part of the procurement file.
- b) Multiple Award-
- 1) A multiple award is an award of an indefinite quantity contract to more than one bidder or offeror when the IOC is obligated to order all of its

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actual requirements from those vendors.

- 2) A multiple award may be made when award to two or more bidders or offerors for similar products is necessary for adequate delivery, service, or product compatibility. Any multiple award shall be made in accordance with the provisions of Section 1120.2010 ~~(Competitive Sealed Bidding)~~, Section 1120.2015 ~~(Competitive Sealed Proposals)~~, Section 1120.2020 ~~(Small Purchases)~~, and Section 1120.2030 ~~(Emergency Procurements)~~, as applicable. Awards shall not be made for the purpose of simply dividing the business or making available product or supplier selection to allow for user preference unrelated to utility or economy. Any such awards shall be limited to the least number of suppliers necessary to meet the valid requirements of State agencies.
 - 3) The IOC shall reserve the right to take bids separately if a particular quantity requirement arises that exceeds its normal requirement or an amount specified in the contract.
 - 4) If a multiple award is anticipated, the solicitation shall state this fact, as well as the criteria for award.
 - 5) In a multiple award situation, one vendor may be designated as the primary recipient of orders. The other awardees may receive orders in the event the primary vendor is unable to deliver or for other reasons as determined by the CPOSPQ.
- c) ~~Auction:~~
Purchases may be made at auction in accordance with the procedural requirements applicable to the particular auction. Notice and competition is not required and the amount payable shall be the amount bid and accepted plus any required buyer's premium.
- d) ~~Non-governmental Joint Purchase:~~
- 1) The CPO may enter into an agreement with a person not eligible for the Governmental Joint Purchasing Act [30 ILCS 525] for the joint procurement of anything covered by thethis Code.
 - 2) Any method of source selection may be used and may be modified or

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adopted to meet the needs of the non-State entity.

- e) **Federal Requirements-**
Requirements of ~~the~~**this** Code and this Part may be modified or adapted to meet federal requirements.
- f) **Donations-**
With approval of the CPO, when the IOC receives a donation that provides the majority of the funding, IOC may follow any procurement or contracting requirements established as a condition of the donation, but shall follow the Code and this Part whenever practicable.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.2037 Tie Bids and Proposals

- a) Tie bids or proposals are those from responsive and responsible vendors that are identical in price or evaluation.
- b) Tie bids or proposals will be treated as follows:
 - 1) If the tied vendors include an Illinois resident vendor, the Illinois resident vendor shall be given the award. In all other situations, including if two or more Illinois resident bidders are tied, the decision shall be made in accordance with subsections (b)(2) through (5) ~~of this Section~~. "Illinois resident vendor" has the meaning given in Section 1120.4510 ~~(Resident Bidder Preference) of this Part~~.
 - 2) If there is a significant difference in responsibility (including ability to provide the service or deliver in the quantity and at the time required), the award will be made to the vendor who is deemed to be the most responsible. A vendor who has had experience in contracting with the State or IOC shall be given additional consideration in determining responsibility if the ~~CPO~~**SPO** determines that dealing with a vendor that has knowledge of State requirements, contracts, job sites, payment practices and such other factors and with which there has been favorable past experience increases the likelihood of successful performance.
 - 3) If there is no significant difference in responsibility, but there is a

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difference in the quality of the goods or services offered, the vendor offering the best quality will be accepted.

- 4) If there is no significant difference in responsibility and no difference in quality of the goods or services offered, the vendor offering the earliest delivery time will be accepted in any case in which the solicitation specified that the needs of the IOC require as early delivery as possible.
 - 5) If the bids or proposals are equal in every respect, the award shall be made by lot unless the ~~CPOSP~~ determines that splitting the award among two or more of the tied bidders is in the best interest of the State. Awards may be split if all affected bidders agree, if splitting is feasible given the type of good or service requested, if overall pricing would not increase, if delivery would be better ensured, or if necessary or desirable to promote future competition.
- c) Record. Records shall be made of all procurements on which tie bids or proposals are received, showing at least the following information:
- 1) the identification number of the solicitation;
 - 2) the supply, service, or construction item; and
 - 3) a listing of all the bidders and the prices submitted.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.2038 Mistakes

- a) General. Corrections to bids, proposals or other procurement processes are allowed, but only to the extent not contrary to the best interest of the State or the fair treatment of other bidders.
- b) Mistakes Discovered Before Opening. A vendor may correct mistakes discovered before the time and date set for opening by withdrawing or correcting as provided in this Section.
- c) Confirmation of Mistake. When the ~~CPOSP~~ knows or has reason to conclude that a mistake has been made, ~~the CPO such officer~~ should request the vendor to

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confirm the information. Situations in which confirmation should be requested include obvious or apparent errors on the face of the document or a price unreasonably lower than the others submitted. If the vendor alleges a mistake, the bid or proposal may be corrected or withdrawn if the conditions set forth in this Section, as applicable, are met.

- d) Mistakes in Bids Discovered After Opening but Before Award. This subsection (d) sets forth procedures to be applied in situations in which mistakes in bids are discovered after the time and date set for bid opening but before award.
- 1) Minor Informalities. A minor informality or irregularity is one that is a matter of form or pertains to some immaterial or inconsequential defect or variation of a bid from the exact requirement of the ~~IFB Invitation for Bids~~, the correction or waiver of which would not be prejudicial to the State (i.e., the effect on price, quality, quantity, delivery, or contractual conditions is negligible). The ~~CPO Procurement Officer~~ shall waive ~~thesueh~~ informalities or allow the bidder to correct them, depending on which is in the best interest of the State. Minor informalities include insignificant mistakes when the effect on price, quantity, quality, delivery, or contractual conditions is negligible. Examples of minor informalities as to form include the failure of a bidder to:
- A) return the number of signed bids required by the ~~IFB Invitation for Bids~~;
- B) sign the bid, but only if the unsigned bid is accompanied by other material indicating the bidder's intent to be bound, including but not limited to signature on an auxiliary form, submission of a bid guarantee or submission of a signed transmittal letter; or
- C) acknowledge receipt of an amendment to the ~~IFB Invitation for Bids~~, but only if:
- i) it is clear from the bid that the bidder received the amendment and intended to be bound by its terms; or
- ii) the amendment involved had a negligible effect on price, quantity, quality, or delivery.

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- 2) Mistakes ~~in Which~~~~Where~~ Intended Correct Bid Is Evident. If the mistake and the intended correct bid are clearly evident on the face of the bid document, the bid shall be corrected to the intended correct bid and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the bid document are typographical errors, errors in extending unit prices, transposition errors, and arithmetical errors.
 - 3) Mistakes ~~in Which~~~~Where~~ Intended Correct Bid Is Not Evident. A bidder may be permitted to withdraw a low bid if:
 - A) a mistake is clearly evident on the face of the bid document but the intended correct bid is not similarly evident; or
 - B) the bidder submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made.
- e) Mistakes in Proposals Discovered After Receipt, but Before Award. This subsection (e) sets forth procedures to be applied in four situations in which mistakes in proposals are discovered after receipt of proposals but before award.
- 1) During Discussions; Prior to Best ~~&and~~ Final Offers. Once discussions are commenced with any offeror or after ~~Best & Final~~~~best and final~~ offers are requested, any offeror may freely correct any mistake prior to the date set for conclusion of discussions or for receipt of ~~Best & Final~~~~best and final~~ offers.
 - 2) Minor Informalities. Minor informalities, unless otherwise corrected by an offeror as provided in this Section, shall be treated as they are under competitive sealed bidding. (See subsection (d)~~above~~.)
 - 3) Correction of Mistakes. If discussions are not held or if the ~~Best & Final~~~~best and final~~ offers upon which award will be made have been received, mistakes may be corrected and the intended correct offer considered only if:
 - A) the mistake and the intended correct offer are clearly evident on the face of the proposal, in which event the proposal may not be withdrawn; or

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- B) the mistake is not clearly evident on the face of the proposal, but the offeror submits adequate proof that clearly and convincingly demonstrates both the existence of a mistake and the intended correct offer, and such correction would not be contrary to the fair and equal treatment of other offerors.
- 4) Withdrawal of Proposals. If discussions are not held, or if the Best & Final~~best and final~~ offers upon which award will be made have been received, the offeror may be permitted to withdraw the proposal if:
- A) the mistake is clearly evident on the face of the proposal and the intended correct offer is not;
- B) the offeror submits proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made but does not demonstrate the intended correct offer; or
- C) the offeror submits adequate proof that clearly and convincingly demonstrates the intended correct offer, but to allow corrections would be contrary to the fair and equal treatment of other offerors.
- f) Mistakes Discovered After Award. Mistakes shall not be corrected after award of the contract except when the CPO~~or the SPO~~ finds it would be unconscionable not to allow the mistake to be corrected.
- g) Determinations Required. When a proposal is corrected or withdrawn, or correction or withdrawal is denied, a written determination shall be prepared showing that relief was granted or denied in accordance with this Part. The Procurement Officer~~SPO~~ shall prepare the determination.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

- a) **Scope of this Section-**
The provisions of this Section shall govern the cancellation of any solicitations whether issued by the IOC under competitive sealed bidding, competitive sealed proposals, small purchases, or any other source selection method, and rejection of bids or proposals in whole or in part.

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- b) ~~Policy~~
Any solicitation may be canceled when the ~~CPO~~~~SP~~ believes cancellation to be in the State's best interest. Nothing shall compel the award of a contract.
- c) ~~Cancellation of Solicitation; Rejection of All Bids or Proposals Prior to Opening~~
- 1) As used in this Section, "opening" means the date set for opening of bids, receipt of unpriced technical offers in multi-step sealed bidding, or receipt of proposals in competitive sealed proposals.
 - 2) Prior to opening, a solicitation may be canceled in whole or in part when the ~~CPO~~~~SP~~ determines in writing that ~~thesuch~~ action is in the State's best interest for reasons including, but not limited to:
 - A) the IOC no longer requires the supplies, services, or construction;
 - B) the IOC no longer can reasonably expect to fund the procurement;
~~or~~
 - C) proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable;~~;~~
 - D) ambiguous or otherwise inadequate specifications;
 - E) the solicitation did not provide for consideration of all factors of significance to the State;
 - F) prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
 - G) all otherwise acceptable bids or proposals received are at clearly unreasonable prices; or
 - H) there is reason to question whether the bids or proposals may not have been independently arrived at in open competition, may have been the result of collusion or may have been submitted in bad faith.
 - 3) When a solicitation is canceled prior to opening, notice of cancellation

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shall be sent to all businesses that responded to the solicitation.

- 4) The notice of cancellation shall:
 - A) identify the solicitation;
 - B) briefly explain the reason for cancellation; and
 - C) ~~when~~where appropriate, explain that an opportunity will be given to compete on any resolicitation or any future procurements of similar supplies, services, or construction.
- d) Cancellation of Solicitation; Rejection of All Bids or Proposals After Opening:
 - 1) After opening but prior to award, all bids or proposals may be rejected in whole or in part when the ~~CPO~~SPQ determines in writing that such action is in the State's best interest. ~~The~~Such reasons for the CPO's determination may include, but are not limited to:
 - A) the supplies, services, or construction being procured are no longer required;
 - B) ambiguous or otherwise inadequate specifications were part of the solicitation;
 - C) the solicitation did not provide for consideration of all factors of significance to the IOC;
 - D) prices exceed available funds and it would not be appropriate to adjust quantities to come within available funds;
 - E) all otherwise acceptable bids or proposals received are at clearly unreasonable prices; or
 - F) there is reason to believe that the bids or proposals may not have been independently arrived at in open competition, may have been collusive, or may have been submitted in bad faith.
 - 2) When the solicitation is canceled or when all bids or proposals are

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rejected, all vendors who submitted bids or proposals shall be sent a notice informing them of the cancellation or rejection.

- e) Documentation-
The reasons for cancellation or rejection shall be made a part of the procurement file and shall be available for public inspection.
- f) Rejection of Individual Bids or Proposals-
 - 1) General. This subsection (f) applies to rejections of individual bids or proposals in whole or in part.
 - 2) Notice in Solicitation. Each solicitation issued by the IOC shall provide that any bid or proposal may be rejected in whole or in part when in the best interest of the State as provided in this Section.
 - 3) Reasons for Rejection. Reasons for rejecting a bid or proposal may include, but are not limited to:
 - A) the business that submitted the bid or proposal is nonresponsible as determined under Section 1120.2046 ~~(Responsibility)~~;
 - B) the bid or proposal is not responsive, that is, it does not conform in all material respects to the solicitation;
 - C) the proposal ultimately ~~(that is, after any opportunity has passed for altering or clarifying the proposal)~~ fails to meet the announced requirements of the IOC in some material respect;
 - D) the supply or service item offered in the bid is unacceptable by reason of its failure to meet the requirements of the specifications or permissible alternates or other acceptability criteria set forth in the ~~IFB~~ ~~Invitation for Bids~~; or
 - E) the proposed price is clearly unreasonable.
 - 4) Notice of Rejection. Upon request, unsuccessful bidders or offerors shall be advised of the reasons for rejection.

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- g) Disposition of Bids or Proposals-
When bids or proposals are rejected, they shall be retained until after award.
When a solicitation is canceled, the bids or proposals will be discarded or returned to the vendor at the discretion of the Procurement Officer~~SPO~~.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section 1120.2043 Suppliers

- a) An agency with procurement authority may contract with any qualified source of supply, but must give preference to directed sources and should consider the special sources outlined in this Section.
- b) Directed Sources – State-Produced Supplies or Services-
- 1) Correctional Industries. The CPO~~SPO~~, after consulting with the Department of Corrections, shall determine the type and extent of the preference given to supplies produced or services performed by Correctional Industries.
 - 2) Central Services. Supplies and services available from the program operations of ~~the DCMS~~Department of Central Management Services shall be utilized unless the CPO~~SPO~~ authorizes procurement from other sources.
- c) Special Sources-
- 1) Prior to any equipment procurement, the IOC will consider property available from the State and Federal Surplus Warehouses under the jurisdiction of ~~the DCMS~~Department of Central Management Services.
 - 2) Various goods and services are available from qualified workshops for the disabled and procurement from these workshops is encouraged. Notice and competition is not required pursuant to Section 45-35 of the Code. Information regarding the workshops will be obtained from DCMS.
 - 3) Various goods and services are available from State agencies and other

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governmental units. These may be procured without notice and competition.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.2044 Vendor Lists

- a) The ~~Procurement Officer~~~~Comptroller's Director of Administrative Services~~ may maintain a list of vendors interested in doing business with the IOC. Lists of names and addresses of bidders shall be available for public inspection.
- b) Inclusion or exclusion from the vendor list of the name of a business does not indicate whether the business is responsible in respect to a particular procurement or otherwise capable of successfully performing a State contract.
- c) ~~IFBs~~~~Invitations for Bids~~ and other solicitations will be sent to vendors on the vendor list for goods or services in question, except in the following cases:
 - 1) The vendor does not sell the particular commodity or equipment.
 - 2) The number of vendors for a procurement classification is of such magnitude that optimum prices may reasonably be expected without soliciting the entire vendor list. The IOC may, if it determines that the best interest of the State would be served, rotate the selection from the list on any equitable basis.
 - 3) The IOC determines that the best interests of the State will be served by limiting vendors to those in defined geographic areas ~~(example: purchases of ready-mix concrete, perishables, and equipment requiring immediate service)~~.
- d) The ~~Procurement Officer~~~~SPO~~ may alternatively refer to vendor lists maintained by DCMS.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.2045 Prequalification

- a) General:

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- 1) The CPO shall identify by publication in the Bulletin the categories of supplies and services (including professional and artistic services) for which the CPO may prequalify vendors of those supplies and services. The CPO is not required to prequalify vendors but may do so when determination of a vendor's qualification prior to procurement would be advantageous to the State.
 - 2) The ~~CPO~~ ~~SPO~~ may require that vendors be prequalified as a condition of being placed on the bid list. An opportunity to prequalify shall be allowed at least one time each fiscal year. The opportunity to prequalify ~~and~~ shall be announced in the Bulletin. The notice shall alert vendors that failure to participate in the prequalification process may result in the vendor being ineligible to receive contracts.
 - 3) When prequalifying a vendor, the CPO may limit prequalifications to determining whether a vendor has been and is likely to be "responsible" using the criteria set forth in Section 1120.2046 ~~of this Part~~. The fact that a prospective vendor has been prequalified does not necessarily represent a finding of responsibility for a particular procurement.
 - 4) When prequalifying a vendor, the CPO may consider factors tailored to a specific procurement or type of procurement; the factor shall be announced in the Bulletin.
 - 5) Except in the case of professional and artistic services, distribution of and responses to the solicitation may be limited to prequalified vendors and award of a contract may be denied because a vendor was not prequalified. If eligibility for the procurement will be limited to prequalified vendors, the ~~IFB Invitation for Bids~~, ~~RFP Request for Proposals~~ or other procurement request shall state that fact.
- b) Professional and Artistic Services:
- 1) Any prequalification of vendors of professional and artistic services shall include, at a minimum, a specified level of: ~~A) education;~~ ~~B) experience;~~ and ~~C) technical ability;~~ and may require certification, ~~or~~ licensure; or membership in professional associations.

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- 2) Categories of services that may be professional, depending on the requirements for education, experience and technical ability, include, but are not limited to:
- A) medical;
 - B) legal;
 - C) accounting;
 - D) general consulting.

- c) ~~Qualified Products Lists:~~
Qualified products lists are treated in Section 1120.2050 ~~(Specifications) of this Part.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.2046 Responsibility

- a) ~~Application:~~
Contracts are to be made only with responsible vendors unless no responsible vendor is available to meet the IOC's needs. If there is doubt about responsibility, and if a bond or other security would adequately protect the State's interests, then that vendor may be awarded a contract upon receipt of the bond or other security.
- b) ~~Standards of Responsibility:~~
- 1) Standards. Factors to be considered in determining whether the standard of responsibility has been met may include, but are not limited to, whether a prospective vendor:
 - A) has available the appropriate financial, material, equipment, facility, and personnel resources and expertise (or the ability to obtain them) necessary to indicate its capability to meet all contractual requirements;
 - B) is able to comply with required or proposed delivery or performance schedules, taking into consideration all existing

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commercial and governmental commitments;

- C) has a satisfactory record of performance. Vendors who are or have been deficient in current or recent contract performance in dealing with the State or other customers may be deemed "not responsible" unless the deficiency is shown to have been beyond the reasonable control of the vendor;
- D) has a satisfactory record of integrity and business ethics. Vendors who are under investigation or indictment for criminal or civil actions that bear on the particular procurement or ~~that which~~ would make contracting with that vendor undesirable may be declared not responsible for the particular procurement;
- E) is qualified legally to contract with the State;
- F) has supplied all necessary information in connection with the inquiry concerning responsibility;
- G) has a current Public Contracts number from the Illinois Department of Human Rights, if required. Proof of application prior to opening of bids or proposals will be sufficient for an initial determination;
- H) pays prevailing wages, if required by law; and
- I) is current in payment of all State of Illinois taxes, including the unemployment insurance tax.

- 2) Information Pertaining to Responsibility. The prospective vendor shall supply information requested by the Procurement Officer concerning the responsibility of ~~the such~~ vendor. The ~~IOC State~~ may supplement this information from other sources and may require additional documentation at any time. If ~~the such~~ vendor fails to supply the requested information, the ~~CPO Comptroller's Director of Administrative Services~~ shall base the determination of responsibility upon any available information, or may find the prospective vendor nonresponsible.

- c) Ability to Meet Standards-

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The prospective vendor may demonstrate the availability of necessary financing, equipment, facilities, expertise, and personnel by submitting upon request:

- 1) evidence that ~~thesueh~~ vendor possesses ~~thesueh~~ necessary items;
 - 2) acceptable plans to subcontract for ~~thesueh~~ necessary items; or
 - 3) a documented commitment from, or explicit arrangement with, a satisfactory source to provide the necessary items.
- d) ~~Duty Concerning Responsibility-~~
Before awarding a contract, the ~~CPOComptroller's Director of Administrative Services~~ must be satisfied that the prospective vendor is responsible. Responsibility can be proven until time of contract execution unless the solicitation or other law requires earlier proof.
- e) ~~Written Determination of Nonresponsibility Required-~~
If a vendor who otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the ~~CPOComptroller's Director of Administrative Services~~. The final determination shall be made part of the procurement file.
- f) ~~Bond for Responsibility-~~
Vendors not having a history of performance may be considered responsible if no other disqualifying factors exist. A bond or other security may be required of ~~thosesueh~~ vendors.
- g) ~~Affiliated Companies-~~
Vendors who are newly formed business concerns having substantially the same owners, officers, directors, or beneficiaries as a previously existing nonresponsible vendor will be declared nonresponsible unless the new organization can prove it was not set up for the purpose of avoiding an earlier declaration of nonresponsibility.
- h) ~~Vendor Under Investigation-~~
A vendor under investigation by a governmental agency may be determined nonresponsible by the ~~CPOComptroller's Director of Administrative Services~~.

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(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART G: BID, PROPOSAL, AND PERFORMANCE SECURITY

Section 1120.2047 Security Requirements

- a) The ~~CPO~~ ~~Comptroller's Director of Administrative Services~~ may require that a vendor furnish bid, proposal, or performance security on IOC contracts. Whenever security is required, except as provided ~~in this Section~~ ~~herein~~, the procurement document will clearly indicate the type and amount of security.
- b) Security, unless otherwise specified, may be in the form of cashier's check, certified check, money order, irrevocable letter of credit or bond. Any bond must be issued by a surety company authorized to do business in the State of Illinois.
- c) Unless the amount is set by law, the ~~CPO~~ ~~Comptroller's Director of Administrative Services~~ will determine the amount, in dollars or percentage of contract price, that will adequately protect the State's interests.
- d) A vendor may be required to furnish up to 100% performance security at any time during contract performance and at its cost, if it appears that delivery or production schedules cannot be met, quality is poor, or responsibility is questioned, and for similar reasons.
- e) ~~Permissive/Mandatory Security:~~
 - 1) Bid or proposal security is permissive on any contract but is not appropriate on emergency or sole source procurements.
 - 2) Performance security is permissive on any contract and is recommended on contracts calling for advance payment.
 - 3) Performance security is required on all public works contracts.
- f) A vendor may submit a single or continuous security each year that will be applicable on all IOC contracts. When ~~the~~ ~~such~~ security has been obligated in an amount equal to the sum of accumulated security requirements, additional security must be submitted.

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- g) Bid or proposal security will be returned to unsuccessful vendors as soon after award as possible. The bid or proposal security of the successful vendor will be returned after contracts have been signed and performance security, if any, submitted. Performance security will be returned upon full performance.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART H: SPECIFICATIONS AND SAMPLES

Section 1120.2050 Specifications and Samples

- a) CPOSPO's Responsibilities Regarding Specifications-
- 1) The CPOSPO is authorized to write IOC procurement specifications.
 - ~~2) When a written determination is made by the SPO authorized to prepare such specifications that there will be no substantial conflict of interest involved and it is otherwise in the best interest of the State, a contract to prepare specifications for IOC use in procurement of supplies or services may be entered into provided the SPO retains the authority to finally approve the specifications.~~
 - ~~23)~~ If a specification for general or common use or a qualified products list exists for an item to be procured under Section 20-20 of the Code (Small Purchases), it shall be used except as otherwise authorized by the CPOSPO. If no such specification exists, the CPO shall have SPO is hereby granted the authority to prepare specifications for use in thesueh purchases. In an emergency under Section 20-30 of the Code, any necessary specification may be utilized without regard to the provisions of this Subpart.
- b) Procedures for the Development of Specifications-
- 1) If a specification for a common or general use item has been developed or a qualified products list has been developed in accordance with this Section for a particular supply or service, it shall be used unless the CPOSPO authorizes use of another specification.
 - 2) All procurements shall be based on specifications that accurately reflect

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the IOC's needs. Specifications shall clearly and precisely describe the salient technical or performance requirements.

- 3) Specifications shall not include restrictions that do not significantly affect the technical requirements or performance requirements, or other legitimate IOC needs. All specifications shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary supply or service, or procurement from a sole source, unless no other manner of description will suffice.
 - 4) Any specifications or standards adopted by a business, industry, not-for-profit organization or governmental unit may be adopted by reference.
 - 5) A specification may provide alternate descriptions when two or more design, functional, or performance criteria will satisfactorily meet the IOC's requirements.
- c) ~~Brand Name or Equal Specification-~~
- 1) Brand name or equal specifications may be used when the ~~CPOSPQ~~ determines in writing that:
 - A) no specification for a common or general use specification or qualified products list is available;
 - B) time does not permit the preparation of another form of specification, not including a brand name specification;
 - C) the nature of the product or the nature of the IOC's requirement makes use of a brand name or equal specification suitable for the procurement; or
 - D) use of a brand name or equal specification is in the State's best interest.
 - 2) Brand name or equal specifications shall seek to designate more than one brand as "or equal", and shall further state that substantially equivalent products to those designated will be considered for award.

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- 3) Required Characteristics. Unless the ~~CPOSPØ authorized to finally approve specifications~~ determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design, functional, or performance characteristics that are required.
 - 4) Nonrestrictive Use of Brand Name or Equal Specifications. ~~When~~Where a brand name or equal specification is used in a solicitation, the solicitation shall contain explanatory language that the use of a brand name is for the purpose of describing the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. "Or equal" submissions will not be rejected because of minor differences in design, construction or features that do not affect the suitability of the product for its intended use. Burden of proof that a product is equal is on the bidder.
- d) Brand Name Only Specification-
- 1) Determination. A brand name only specification may be used only when the ~~CPOSPØ~~ makes a written determination that only the identified brand name item or items will satisfy the IOC's needs.
 - 2) Use. Brand name alone may be specified in order to ensure compatibility in existing systems, to preserve warranty, to ensure maintenance, or as authorized in writing by the ~~CPOSPØ~~.
 - 3) Competition. The ~~CPOSPØ~~ shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit ~~those such~~ sources to achieve whatever degree of competition is practicable. If only one source can supply the requirement, the procurement shall be made under Section 1120.2025 ~~(Sole Economically Feasible Source Procurement) of this Part.~~
 - 4) Small and Emergency Procurements. Brand name only specifications may be used when procuring items under ~~the small (see Section 1120.2020 and) and emergency (see Section 1120.2025) provisions of this Part.~~
- e) Qualified Products List-

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- 1) Use. A qualified products list may be developed when testing or examining supplies prior to issuance of the solicitation is desirable or necessary in order to best satisfy IOC requirements.
 - 2) Solicitation. When developing a qualified products list, a representative group of potential suppliers shall be solicited in writing to submit products for testing and examination to determine acceptability for inclusion in a qualified products list. Any potential supplier, even though not solicited, may offer its products for consideration during the time allowed for testing and examination.
 - 3) Testing and Confidential Data. Inclusion on a qualified products list shall be based on results of tests or examinations conducted in accordance with established requirements. Except as otherwise provided by law, trade secrets, test data, and similar information provided by the supplier will be kept confidential when requested in writing by the supplier.
- f) Proven Products-
- The supply or service may be rejected if it has not been offered to other governmental or commercial accounts for at least one year. Specifications may require that the supply or services must have been used in business or industry for a specified period of time to be considered.
- g) State Required Samples-
- 1) Any required samples must be submitted as instructed in the solicitation with transportation prepaid by the vendor. Each sample must be labeled with the vendor's name, address and a means of matching the sample with the applicable bid or proposal.
 - 2) Any sample submitted must be representative of the item that would be delivered if a contract were awarded for that item. Samples submitted by a successful vendor will be retained to check continuing quality. Submission of samples will not limit the IOC's right to require adherence to specifications.
 - 3) No payment will be made for IOC required samples. Samples not destroyed or consumed by examination or testing will be returned upon

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request and at vendor's expense. ~~TheSuch~~ request must be made at time of submission with return collect or prepayment provisions and instructions for return accompanying the samples.

- h) ~~Product Demonstration-~~
Any vendor may request time and space to demonstrate a product or service. Agreement to allow ~~thesueh~~ demonstration will be solely at the IOC's discretion and will not entitle the bidder to a contract, nor shall payment for the demonstration be allowed unless a written contract had been executed prior to the demonstration.
- i) ~~Specifications Prepared by Other Than IOC Personnel-~~
- 1) Specifications may be prepared by other than IOC personnel, including, but not limited to, consultants, architects, engineers, designers, and other drafters of specifications for public contracts when the CPO determines that there will be no substantial conflict of interest involved and it is otherwise in the best interests of the State, and provided the CPO retains the authority for final approval of the specifications. Contracts for the preparation of specifications by other than IOC personnel shall require the specification writer to adhere to the Code and the IOC requirements.
 - 2) The person who prepared the specifications shall not submit a bid or proposal to meet the procurement need unless the Comptroller determines in writing that it would be in the best interest to accept such a bid or proposal from that person. A notice to that effect shall be published in the Bulletin.
- j) Pre-solicitation Assistance/Specifications Prepared by Other Than State Personnel
- 1) Prior to issuing a solicitation, a CPO may issue an RFI to obtain services of any person or business to conduct research, analyze requirements or provide general design or other assistance to help IOC develop its procurement strategy, specifications and documents and to identify and address other related needs. No services can be obtained to assist IOC in reviewing, drafting and preparing an RFP or RFI or to provide similar assistance.

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- 2) Notice. An RFI shall be published in the Bulletin for at least 7 calendar days. All information received in response to an RFI shall be published in the Bulletin for at least 7 calendar days.
- 3) The RFI shall contain at least the following:
 - A) the name of the requesting agency;
 - B) a brief description of the agency's needs; and
 - C) a statement that the RFI is not a solicitation.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART I: CONTRACT ~~TYPE~~~~TYPE~~**Section 1120.2055 Types of Contracts**

- a) ~~Scope of Rule-~~
This Subpart contains descriptions of types of contracts and limitations as to when they should be utilized by the IOC in its procurements. Types of contracts not mentioned in this Section may also be utilized.
- b) ~~Prohibition of Cost-Plus-a-Percentage-of-Cost Contracting-~~
The cost-plus-a-percentage-of-cost contract is prohibited by Section 20-55 of the ~~Illinois Procurement~~ Code. This type of contracting may not be used alone or in conjunction with an authorized type of contract.
- c) ~~Types of Fixed-Price Contracts-~~
 - 1) ~~Firm Fixed-Price Contract.~~ A firm fixed-priced contract provides a price that is not subject to adjustment because of variations in the contractor's cost of performing the work specified in the contract.
 - 2) ~~Fixed-Price Contract with Price Adjustment-~~
 - A) A fixed-price contract with price adjustment provides for variation in the contract price under special conditions defined in the contract, other than customary provisions authorizing price

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adjustments due to modifications to the work. The formula or other basis by which the adjustment in contractor price can be made shall be specified in the solicitation and the resulting contract. Adjustment allowed may be upward or downward only, or both upward and downward. Examples of conditions under which adjustments may be provided in fixed-price contracts are:

- i) changes in the contractor's labor agreement rates as applied to an industry or areawide (such as are frequently found in contracts for the purchase of coal);
- ii) changes due to rapid and substantial price fluctuations, that can be related to an accepted index (such as contracts for gasoline, heating oils, and dental gold alloy); and
- iii) in requirement contracts when a general price change applicable to all customers occurs, or when a general price change alters the base price (such as a change in a manufacturer's published price list or posted price to which a fixed discount is applied pursuant to the contract to determine the contract price).

B) If the contract permits unilateral action by the contractor to bring about the condition under which a price increase may occur, the IOC shall retain the right to reject the price increase and terminate without cost the future performance of the contract.

d) ~~Cost-Reimbursement Contracts-~~

1) ~~Determination Prior to Use-~~

- A) A cost-reimbursement type contract may be used only when the CPO ~~or SPO~~ determines in writing that such a contract is likely to be less costly to the IOC than any other type or that it is impracticable to obtain otherwise the supplies or services.
- B) Reimbursement of travel expenses in accordance with applicable travel control board regulations is authorized without further determinations.

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- 2) Cost Contract. A cost contract provides that the contractor will be reimbursed for allowable costs incurred in performing the contract, but will not receive a fee.
- 3) Cost-Plus-Fixed-Fee Contract. This is a cost-reimbursement type contract that provides for payment to the contractor of an agreed fixed fee in addition to reimbursement of allowable incurred costs. The fee is established at the time of contract award and does not vary if the actual cost of contract performance is greater or less than the initial estimated cost established for such work. Thus, the fee is fixed but not the contract amount because the final contract amount will depend on the allowable costs reimbursed. The fee is subject to adjustment only if the contract is modified to provide for an increase or decrease in the scope of work specified in the contract. The cost-plus-fixed-fee contract can be either a completion form or term form.
- 4) Cost Incentive Contracts:
 - A) General. A cost-incentive type of contract provides for the reimbursement to the contractor of allowable costs incurred up to the ceiling amount and establishes a formula whereby the contractor is rewarded for performing at less than target cost (that is, the parties' agreed best estimate of the cost of performing the contract will vary inversely with the actual, allowable costs of performance and consequently is dependent on how effectively the contractor controls cost in the performance of the contract).
 - B) Fixed-Price Cost-Incentive Contract. In a fixed-price cost-incentive contract, the parties establish at the outset a target cost, a target profit (that is, the profit that will be paid if the actual cost of performance equals the target cost), a formula that provides a percentage increase or decrease of the target profit depending on whether the actual cost of performance is less than or exceeds the target cost, and a ceiling price. After performance of the contract, the actual cost of performance is arrived at based on the total incurred allowable costs as provided in the contract. The final contract price is then established in accordance with the formula using the actual cost of performance. The final contract price may

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not exceed the ceiling price. The contractor is obligated to complete performance of the contract, and, if actual costs exceed the ceiling price, the contractor suffers a loss.

- C) **Cost-Reimbursement Contract with Cost-Incentive Fee.** In a cost-reimbursement contract with cost-incentive fee, the parties establish at the outset a target cost; a target fee; a formula for increase or decrease of fee depending on whether actual cost of performance is less than or exceeds the target cost, with maximum and minimum fee limitations; and a cost ceiling that represents the maximum amount that the IOC is obligated to reimburse the contractor. The contractor continues performance until the work is complete or costs reach the ceiling specified in the contract, including any modification thereof, whichever first occurs. After performance is complete or costs reach the ceiling, the total incurred, allowable costs reimbursed as provided in the contract are applied to the formula to establish the incentive fee payable to the contractor.

- e) **Performance Incentive Contracts-**
In a performance incentive contract, the parties establish at the outset a pricing basis for the contract, performance goals, and a formula that varies the profit or the fee if the specified performance goals are exceeded or not met. For example, early completion may entitle the contractor to a bonus, while late completion may entitle the IOC to a price decrease.
- f) **Time and Materials Contracts; Labor Hour Contracts-**
Time and materials contracts provide an agreed basis for payment for materials supplied and labor performed. Labor hour contracts provide only for the payment of labor performed. ~~These~~~~Such~~ contracts shall, to the extent possible, contain a stated ceiling or an estimate that shall not be exceeded without prior IOC approval.
- g) **Definite Quantity and Indefinite Quantity Contracts-**
- 1) **Definite Quantity.** A definite quantity contract is a fixed-price contract that provides for delivery of a specified quantity of supplies or services either at specified times or when ordered.

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- 2) Indefinite Quantity. An indefinite quantity contract is a contract for an indefinite amount of supplies or services to be furnished at specified times, or as ordered, that establishes unit prices of a fixed-price type. Generally an approximate quantity or the best information available as to quantity is stated in the solicitation. The contract may provide a minimum quantity the IOC is obligated to order and may also provide for a maximum quantity provision that limits the IOC's obligation to order.
- 3) Requirements Contracts. A requirements contract is an indefinite quantity contract for supplies or services that specifically obligates the IOC to order all the actual IOC requirements during a specified period of time.

| h) ~~Leases-~~

A lease is a contract for the use of supplies or real property under which title will not pass to the IOC at any time.

| i) ~~Recovery Contracts-~~

Contracts may provide for payment to the vendor of a percentage of the amount the vendor recovers or collects on behalf of the State. The percentage may be fixed or may vary depending on amount of recovery or other factors, and the percentage may be paired with a fixed price or cost reimbursement method.

| j) ~~Option Provisions-~~

1) ~~Contract Provision.~~ When a contract is to contain an option for renewal, extension, or purchase, notice of ~~that such~~ provision shall be included in the solicitation. These options may be exercised without taking other procurement action when the option is established for exercise at the IOC's option.

2) Lease with Purchase Option. A purchase option in a lease may be exercised only if the lease containing the purchase option was awarded under competitive sealed bidding or competitive sealed proposals.

| k) ~~State Produced Supplies and Services-~~

Notwithstanding any provision in any contract, supplies or services available from the State's own programs, such as Correctional Industries, may be ordered without violating any contract.

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- l) ~~Extraordinary Quantities-~~
Notwithstanding any provision in any contract, the IOC reserves the right to take bids separately if a particular quantity requirement arises that exceeds the IOC's normal needs or ordering requirements.
- m) ~~Energy Conservation-~~
The CPO may authorize an IFB, RFP or sole source negotiation for energy conservation measures whereby the IOC would make payment based on utility cost savings. ~~TheSuch~~ contract shall require a clearly defined baseline of energy usage and method of measuring cost savings taking into account at least differing weather conditions, changes in facility, usage and cost of energy.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART J: DURATION OF CONTRACTS

Section 1120.2060 Duration of Contracts – General

- a) ~~General-~~
- 1) A multi-term contract for a term of up to 10 years is authorized when determined by the ~~CPOSPO~~ to be in the best interest of the State, inclusive of proposed contract renewals.
 - 2) A software license may have a term longer than 10 years, including for a perpetual term, provided the payment term is limited to no more than 10ten years.
 - 3) The length of the payment terms of the bonds issued by or on behalf of the IOC shall be limited as provided in the statute authorizing the issuance of bonds.
- b) The contractual obligation of both parties in each fiscal period succeeding the first is subject to the appropriation and availability of funds. The contract shall provide that, in the event that funds are not available for any succeeding fiscal period, the remainder of ~~thesueh~~ contract shall be canceled without penalty to, or further payment being required by, the IOC. This provision applies to only those contracts that are funded in whole or in part by funds appropriated by the Illinois General Assembly or other governmental entity.

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- c) Conditions for Use of Multi-~~YearTerm~~ Contracts:
A multi-~~yearterm~~ contract may be used when:
- 1) special production of definite quantities or the furnishing of long-term services are required to meet IOC needs; or
 - 2) a multi-~~yearterm~~ contract will serve the best interests of the State by encouraging effective competition or otherwise promoting economies in State procurement. The following factors are among those relevant to such a determination:
 - A) firms that are not willing or able to compete because of high start-up costs or capital investment in facility expansion will be encouraged to participate in the competition when they are assured of recouping ~~thosesuch~~ costs during the period of contract performance;
 - B) lower production costs because of larger quantity of service requirements, and substantial continuity of production or performance over a longer period of time, can be expected to result in lower unit prices;
 - C) stabilization of the contractor's work force over a longer period of time may promote economy and consistent quality; or
 - D) the cost and burden of contract solicitation, award, and administration of the procurement may be reduced.
- d) Multi-~~YearTerm~~ Contract Procedure:
The solicitation shall state:
- 1) the proposed term;
 - 2) the amount of supplies or services required for the proposed contract period;
 - 3) ~~the type of pricing requested (e.g., firm or term); and whether bidders or offerors may submit prices for:~~

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- A) ~~the first fiscal period only;~~
 - B) ~~the entire time of performance only; or~~
 - C) ~~both the first fiscal period and the entire time of performance; and~~
- 4) how the award will be determined.
- e) Renewals:
- 1) ~~When~~Where the original procurement specifically called for an initial term plus renewals, the renewals may be exercised without further procurement activity, provided the initial term and the exercised renewals may not exceed 10 years, the terms and conditions do not change except as provided in the contract (such as price escalations tied to an index) and the option to renew is reserved solely to the IOC or to mutual agreement of the parties.
 - 2) When a renewal will result in the total term, counting the initial term and any previous renewals, exceeding 10 years, the renewal must be procured using one of the methods of source selection authorized by the Code and this Part. This renewal will start a new term that shall not exceed 10 years.
 - 2) ~~When the original procurement was silent as to renewals, the renewal must be procured using one of the methods of source selection authorized by the Code and this Part.~~

(Source: Amended at 36 Ill. Reg. _____, effective _____)

SUBPART K: CONTRACT MATTERS

Section 1120.2560 Prevailing Wage (Repealed)

- a) ~~For the following classifications and if competition exists, no bidder will be awarded a contract unless its employees are paid wages and benefits and are working under conditions prevalent in the location where the work is to be performed.~~

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- 1) ~~Public works;~~
 - 2) ~~Printing;~~
 - 3) ~~Janitorial services, window washing and security guard services having a monthly contract price of \$200 or a yearly price of \$2,000.~~
- b) ~~Prevailing wage and conditions prevalent means the hourly wage rate, overtime, holiday pay, pension, welfare, premium differential, vacation pay and other benefits received by employees and the environmental conditions under which they work.~~
- e) ~~Wage Rates.~~
- 1) ~~Prevailing wage rates, benefits and conditions will be those in effect on the first date of the contract, provided that if the rate changes during the contract term and the amount of change is known before execution of the contract, then the contract rate will vary in like amount.~~
 - 2) ~~If the change cannot be determined in advance, the contract will be changed by the amount of the change in wage rate and all components of price that are dependent on the usage rate, such as payroll taxes, worker's compensation insurance, vacation, sick days, and pension, provided that profit shall not increase due to prevailing wage increases. The IOC shall have the option to cancel the contract if it finds the new price unacceptable.~~
 - 3) ~~If the initial prevailing wage, etc., cannot be determined prior to execution, contracts may be entered into and will remain valid for the stated term.~~
- d) ~~If a collective bargaining agreement is in effect governing the type of printing, janitorial, window washing or security guard service sought, that agreement will define minimum wages, benefits and conditions that must be paid in order for a bidder to be considered responsible.~~
- e) ~~For public works, location means the county where the physical work upon public works is performed, except that if there is not available in the county a sufficient number of competent skilled laborers, workers and mechanics to construct the~~

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~~public works efficiently and properly, "location" includes any other county nearest the one in which the work or construction is to be performed and from which such persons may be obtained in sufficient numbers to perform the work.~~

- f) ~~For Printing Contracts, location means one of the following areas:~~
- 1) ~~Location.~~
 - A) ~~Cook County;~~
 - B) ~~Boone, Bureau, Carroll, Champaign, DeKalb, DeWitt, DuPage, Ford, Fulton, Grundy, Hancock, Henderson, Henry, Iroquois, Jo Daviess, Kane, Kankakee, Kendall, Knox, Lake, LaSalle, Lee, Livingston, Logan, Marshall, Mason, McDonough, McHenry, McLean, Mercer, Ogle, Peoria, Piatt, Putnam, Rock Island, Schuyler, Stark, Stephenson, Tazewell, Vermilion, Warren, Whiteside, Will, Winnebago, and Woodford counties;~~
 - C) ~~Adams, Alexander, Bond, Brown, Calhoun, Cass, Christian, Clark, Clay, Clinton, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Franklin, Gallatin, Greene, Hamilton, Hardin, Jackson, Jasper, Jefferson, Jersey, Johnson, Lawrence, Macon, Macoupin, Madison, Marion, Massac, Menard, Monroe, Montgomery, Morgan, Moultrie, Perry, Pike, Pope, Pulaski, Randolph, Richland, Saline, Sangamon, Scott, Shelby, St. Clair, Union, Wabash, Washington, Wayne, White, and Williamson counties.~~
 - 2) ~~Where the printing is performed in a plant outside the jurisdiction of this State, it shall be deemed produced in the Illinois locality in which delivery of the printing ordered is required to be made. Where such printing is required to be delivered to more than one Illinois locality, such printing shall be deemed produced in the Illinois locality to which the largest dollar volume of printing under the contract is to be delivered.~~
- g) ~~For janitorial services, window washing and security guard services, location means the county in which the work is to be performed.~~
- h) ~~Prevailing wages, benefits and conditions will be determined by the Illinois~~

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~~Department of Labor.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 1120.2580 Subcontractors

All competitive sealed proposals, including proposals for professional and artistic services, shall include a provision to require each offeror to identify, in its proposal or prior to award, the identity of each subcontractor that will be used in the performance of the contract, as well as the amounts expected to be paid to each subcontractor.

(Source: Added at 36 Ill. Reg. _____, effective _____)

SUBPART O: PREFERENCES

Section 1120.4505 Procurement Preferences

The procurement preferences identified in Article 45 of the Code must be considered in developing procurement documents, conducting evaluations and drafting contracts. When any such preference is utilized, the ~~IFB Invitation for Bids, RFP Request for Proposals,~~ or other procurement request shall identify the preference and the conditions associated with ~~its~~ use. Subsequent Sections of this Subpart O identify conditions for the use of certain of the statutory preferences.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.4510 Resident Bidder Preference

- a) "Illinois resident vendor" as used in this Section means a person authorized to transact business in this State and having a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract was first advertised or announced, including a foreign corporation duly authorized to transact business in this State that has a bona fide establishment for transacting business within this State at which it was actually transacting business on the date when any competitive solicitation for a public contract was first advertised or announced.
- b) In breaking a tie, an Illinois resident vendor shall be given the award.

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- c) An Illinois resident vendor who would perform the services or provide the supplies from another state shall be considered a resident of that other state as against an Illinois resident vendor who would perform the services or provide the supplies from Illinois, if that other state has an in-state preference.
- d) If an Illinois resident vendor produces or performs at least 51% of the goods or services in another state, that Illinois resident vendor shall be considered a resident of that other state for purposes of application of this reciprocal preference when evaluating the bid of an Illinois resident contractor that produces or performs at least 51% of the goods or services in Illinois.
- e) The ~~CPOSPQ~~ may refer to the list of states with in-state preference maintained by DCMS, which shall be considered in all procurements involving out-of-state vendors.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.4530 Correctional Industries

- a) The ~~CPOSPQ~~ shall refer to the listing maintained by DCMS of the goods or services available and mandatorily purchased from the Department of Corrections.
- b) Those items that must be purchased from Corrections may not be procured from any other source without the express written authorization of the ~~CPOSPQ~~.
- c) The ~~CPOSPQ~~ may procure from Corrections without seeking competition or giving public notice.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.4535 Sheltered Workshops for the Disabled

- a) Use of Sheltered Workshop-
The ~~CPOSPQ~~ shall refer to information prepared by DCMS concerning qualified sheltered workshops and categories of goods and services set aside to ~~thosesuch~~ sheltered workshops by DCMS. To the extent practicable, the IOC will observe such set asides.

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- b) ~~Pricing Approval-~~
While notice and competition is not required prior to contracting with a sheltered workshop, prices must be reasonable. Whether a price is reasonable will be determined based upon current market prices, historical prices, prices received by other State agencies for similar goods or services, the policy of the Code to promote procurements from sheltered workshops, and other such relevant factors.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.4545 Small Business ~~(Repealed)~~

- a) ~~Set Aside-~~
~~DCMS may determine categories of goods or services procurements that will be set aside for small business located in Illinois. The SPO may contact DCMS to determine whether a particular procurement has been set aside for small business, and, if so, the IOC may honor the set aside to the extent practicable.~~
- b) ~~Small Business List-~~
~~The IOC may refer to the list of responsible vendors that meet the criteria of small business maintained by DCMS. A business that fits the definition of small on the day of bid or proposal opening will be considered small for the duration of the contract.~~
- c) ~~Required Use-~~
~~If the SPO wishes to make a procurement covered by a set aside designation, the solicitation must note responses are limited to those from responsible small businesses. Bids or proposals received from large businesses will be rejected as nonresponsive.~~
- d) ~~Withdrawal of Set Aside-~~
~~If the SPO determines that acceptance of the best bid or proposal will result in the payment of an unreasonable price, the SPO shall reject all bids or proposals and withdraw the designation of small business set aside for the procurement in question. When a small business set aside is withdrawn, notification shall be published in the Illinois Procurement Bulletin with an explanation. After withdrawal of the small business set aside, the procurement shall be conducted in accordance with the limitations of the Code and this Part.~~
- e) ~~Criteria for Small Business-~~

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~~Unless the SPO provides a definition for a particular procurement that reflects industrial characteristics, a small business is one:~~

- ~~1) Independently owned and operated.~~
- ~~2) Not dominant in its field of operations. This means the business does not exercise a controlling or major influence in a kind of business activity in which a number of business concerns are primarily engaged. In determining dominance, consideration shall be given to all appropriate factors, including volume of business, number of employees, financial resources, competitive status or position, ownership or control of materials, processes, patents, license agreements, facilities, sales territory, and nature of business activity.~~
- ~~3) With annual sales for most recently ended fiscal year no greater than:
 - ~~A) \$7,500,000 for wholesale business;~~
 - ~~B) \$3,000,000 for construction business; or~~
 - ~~C) \$1,500,000 for retail business.~~~~
- ~~4) With no more than 250 employees if a manufacturing business.
 - ~~A) A manufacturing business shall calculate how many people it employs by determining its average full-time equivalent employment, based on the number of persons employed on a full-time, part-time, temporary or other basis for its most recently ended fiscal year.~~
 - ~~B) If a manufacturing business has been in existence for less than a full fiscal year, its average employment should be calculated for the period through one month prior to the bid or proposal due date.~~~~
- ~~5) If the business is any combination of retailer, wholesaler or construction business, then the annual sales for each component may not exceed the amounts shown in subsection (e)(3). For example, a business that is both a retailer and wholesaler may not have total sales exceeding \$9,000,000 and the retail component may not exceed \$1,500,000 and the wholesale~~

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~~component may not exceed \$7,500,000. If the business is also a manufacturer, in addition to meeting the annual sales requirement, the number of manufacturing employees may not exceed the number shown in subsection (e)(4).~~

- 6) ~~When computing the size status of a vendor, the number of employees and annual sales and receipts, as applicable, of the vendor and all affiliates shall be included. Concerns are affiliates when either one directly or indirectly controls or has the power to control the other, or when a third party or parties control or have the power to control both. In determining whether concerns are independently owned and operated and whether affiliation exists, consideration shall be given to all appropriate factors, including use of common facilities, common ownership and management and contractual arrangements. However, a franchise relationship shall not affect small business status if the franchise has the right to profit commensurate with ownership and bears the risk of loss or failure.~~

(Source: Repealed at 36 Ill. Reg. _____, effective _____)

Section 1120.4550 Contracting with Business Owned and Controlled by Minorities, Females, and Persons with Disabilities (Repealed)

- a) ~~The Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575/0.01] (Act) sets a goal (minimum 12%) for contracting with businesses owned by minorities, females, or persons with disabilities.~~
- b) ~~The IOC hereby establishes a goal that at least 12% of the dollar amount of contracts be awarded to businesses owned by minorities, females, or persons with disabilities. Of that 12%, 5% shall be for female-owned businesses, 2% for businesses owned by persons with disabilities and not-for-profit entities for the disabled, and the remaining 5% for minority-owned businesses, unless these amounts are modified by the Business Enterprise Council for Minorities, Females, and Persons with Disabilities created under Section 5 of the Act [30 ILCS 575/5].~~
- e) ~~The goal established in subsection (b) may be satisfied, in whole or in part, by counting expenditures made by IOC vendors to subcontractors.~~
- d) ~~The CPO may undertake the following actions to reach the goal established in subsection (b):~~

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- 1) ~~focus solicitation upon vendors from the list of certified businesses ascertained by the Business Enterprise Council for Minorities, Females, and Persons with Disabilities;~~
 - 2) ~~advertise in appropriate media;~~
 - 3) ~~divide job or project requirements, when economically, technically, and programmatically feasible, into smaller tasks or quantities;~~
 - 4) ~~eliminate extended experience or capitalization requirements when programmatically feasible;~~
 - 5) ~~identify specific, proposed projects, purchases, or contracts as particularly appropriate for participation by businesses owned by minorities, females, or persons with disabilities; and~~
 - 6) ~~establish set-asides in accordance with applicable law.~~
- e) ~~The Act and the rules promulgated thereunder (44 Ill. Adm. Code 10) set forth the procedures for certification as a business owned by minorities, females, or persons with disabilities.~~
 - f) ~~The CPO shall acquire and maintain a list of businesses certified by the Business Enterprise Council for Minorities, Females, and Persons with Disabilities. The names and addresses of certified vendors shall be made available to the public.~~
 - g) ~~Those categories of contracts and expenditures exempted by the Business Enterprise Council for Minorities, Females, and Persons with Disabilities as set forth in its rules (44 Ill. Adm. Code 10.22) are exempt from the contracting goal established in this Section. In addition, the CPO may exempt specific contracts or expenditures from the goal prior to the advertisement for bids or solicitation of proposals, when the CPO has determined, based upon the best information available at the time of the determination, that there is an insufficient number of businesses owned by minorities, females, and persons with disabilities to ensure adequate competition and an expectation of reasonable prices on bids or proposals solicited for the specific contract or expenditure. A determination of the CPO made under this subsection shall be reduced to writing and published in the Illinois Procurement Bulletin.~~

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(Source: Repealed at 36 Ill. Reg. _____, effective _____)

SUBPART P: ETHICS

Section 1120.5020 Exemptions

If the ~~SPO or~~ CPO finds a conflict of interest under Section 50-13 of the Code with the vendor selected for award or contract negotiations, the Comptroller shall decide in writing whether to grant an exception and place the written determination in the contract file.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.5030 Revolving Door

The CPO ~~and SPOs~~ shall identify in writing ~~his or her~~~~their~~ designees whose job, or whose position description, is at least 51% directly related to State procurement. The following activities are directly related to State procurement: drafting specifications, preparing ~~IFB~~~~Invitations for Bids~~ and ~~RFP~~~~Requests for Proposals~~, evaluating responses to ~~IFB~~~~Invitations for Bids~~ and ~~RFP~~~~Requests for Proposals~~, negotiating contracts and supervising any of the foregoing. The CPO ~~and SPOs~~ shall maintain a record of ~~the~~~~their~~ designees for at least two years following the end or revocation of the designation.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.5035 Disclosure of Financial Interests and Potential Conflicts of Interest

- a) For purposes of Section 50-35(a) of the Code, an "offer from responsive bidders or offerors" means only those offers that are received using an ~~IFB~~~~Invitation for Bids~~ or ~~RFP~~~~Request for Proposals~~ under ~~Section~~~~Sections~~ 20-10, 20-15 ~~or~~ 20-35 or Article 35 of the Code. Disclosures are not required in small, sole source or emergency procurements.
- b) Definitions:
 - 1) For purposes of Section 50-35(b) of the Code, "parent entity" means a person who owns 100% of the bidding entity.
 - 2) For purposes of Section 50-35(b)(1) of the Code, "contractual employment

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of services" means any contract to provide services to the State, whether as independent contractor or employee, which is by and between the State and the named individual.

- c) Distributable income means the income of a company after payment of all expenses, including employee salary and bonus, and retained earnings, and the remaining amount is actually distributed to those entitled to receive a share of ~~thesuch~~ income.
- d) Personal Services shall be any contract for services subject to ~~thethis~~ Code including, by way of example, professional and artistic services, repair services, ~~and~~ cleaning and guard services, but excludes contracts with employees who are exempt from the Code under Section 1-10(b)(4).
- e) "Competitively bid" means a contract let pursuant to ~~SectionSections~~ 20-10, 20-15 ~~orand~~ 20-35 of the Code.
- f) The ~~CPOSP~~ may prescribe forms for the disclosure of potential conflicts of interest and financial interests of bidders or offerors required under Section 50-35 of the Code.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.5040 Lobbying Restrictions

- a) *A person or business that is let or awarded a contract is not entitled to receive any payment, compensation, or other remuneration from the State to compensate the person or business for any expenses related to travel, lodging, or meals that are paid by the person or business to any officer, agent, employee, consultant, independent contractor, director, partner, manager, or shareholder. [30 ILCS 500/50-38(a)]*
- b) Disclosure
 - 1) *Any bidder or offeror on a State contract that hires a person required to register under the Lobbyist Registration Act [25 ILCS 170] to assist in obtaining a contract shall:*

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- A) disclose all costs, fees, compensation, reimbursements, and other remunerations paid or to be paid to the lobbyist related to the contract;
- B) not bill or otherwise cause the State of Illinois to pay for any of the lobbyist's costs, fees, compensation, reimbursements, or other remuneration; and
- C) sign a verification certifying that none of the lobbyist's costs, fees, compensation, reimbursements, or other remuneration were billed to the State.
- 2) The information in subsection (b)(1)(A), along with all supporting documents, shall be filed with the CPO and with the Secretary of State. The CPO shall post this information, together with the contract award notice, in the Bulletin. [30 ILCS 500/50-38(b)]
- c) No person or entity shall retain a person or entity required to register under the Lobbyist Registration Act to attempt to influence the outcome of a procurement decision for compensation contingent in whole or in part upon the decision or procurement. Any person who violates this subsection is guilty of a business offense and shall be fined not more than \$10,000. [30 ILCS 500/50-38(c)]

(Source: Added at 36 Ill. Reg. _____, effective _____)

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

Section 1120.5510 Complaints Against Vendors or Subcontractors

- a) The purpose of this Section is to document performance of vendors or subcontractors.
- b) Whenever a vendor or subcontractor fails to meet contract requirements, including but not limited to failure to deliver on time or meet specifications, ~~or for other similar causes,~~ the IOC shall take appropriate action to initiate a complaint to the vendor or subcontractor.
- cb) For relatively minor infractions, the IOC may initiate contact by telephone or in person. If not resolved by this action, a written complaint should be made.

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- de) If the initial complaint is not satisfactorily answered, or for serious infractions, the IOC shall send a written complaint to the vendor or subcontractor detailing the problem. For complaints regarding contracts established by the CPO, a form available from the CPO shall be used for processing complaints.
- ed) A copy of all written complaints and the resolution or status shall be filed with the CPO.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.5520 Suspension

- a) Application-
This Section applies to all debarments or suspensions of vendors or subcontractors from consideration for award of contracts under the Code.
- b) The ~~CPOComptroller's Director of Administrative Services~~ may suspend a vendor or subcontractor from doing business with the IOC or for specific types of supplies or services. A suspension may be issued upon a showing the vendor or subcontractor violated the Code or this Part, or failed to conform to specifications or terms of delivery.
- c) When the ~~CPOComptroller's Director of Administrative Services~~ finds cause exists for suspension, a notice of suspension, including a copy of the CPO's determination, shall be sent to the suspended vendor or subcontractor. Bids or proposals will not be solicited from the suspended vendor or subcontractor; and, if ~~they are received, they~~ will not be considered during the period of suspension.
- d) A ~~vendor or subcontractoreontractor~~ may be suspended for a period of time commensurate with the seriousness of the offense, but for no more than five years. The suspension will be effective within seven calendar days after receipt of notice unless an objection is filed. If an objection is filed, suspension would not become effective until the evaluation of the objection is completed.
- e) The ~~CPOComptroller's Director of Administrative Services~~ may debar a vendor or subcontractor. Debarment is the permanent suspension of a vendor or subcontractor from doing business with the IOC. A debarment may only take place in those instances involving bribery or attempted bribery of a State of

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Illinois officer or employee, or as otherwise allowed or required by law. Bids or proposals ~~received will not be solicited~~ from the debarred vendor, ~~and, if received~~ will not be considered.

- f) The ~~CPO~~ ~~Comptroller's Director of Administrative Services~~ shall maintain a master list of all IOC suspensions and debarments and refer to the DCMS master list of all suspensions and debarments. The master list will retain information concerning suspensions and debarments as public records. ~~These~~ ~~Such~~ records will be maintained for a period of at least three years following the end of the suspension or debarment. ~~The~~ ~~Such~~ public information may be considered in determining responsibility.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.5530 Settlement and Resolution of Contract and Breach

- a) ~~Authority to Settle or Resolve Controversies-~~
The ~~CPOSPO that established the contract~~ shall have authority to settle and resolve controversies, but the Comptroller may set limits on ~~that~~ ~~such~~ authority.
- b) ~~Authority of Using Agency-~~
The IOC has the authority to accept delivery of goods or services in accordance with contract requirements as satisfactory adjustment of a complaint.
- c) ~~Substitution of Terms/Price Reduction-~~
If the vendor proposes to make an adjustment by: ~~1) substituting an alternative specification;~~ or ~~2) reducing the contract price by a certain amount to compensate for some failure to provide full performance under the contract,~~ ~~the~~ ~~such~~ proposal must be referred to and approved by the ~~CPOSPO~~.
- d) ~~Cancellation for Breach of Contract-~~
In any of the following cases the ~~CPOSPO~~ shall have the right to terminate or rescind any contract entered into under this Part:
- 1) The successful bidder fails to furnish a satisfactory performance bond within the time specified.
 - 2) The vendor fails to make delivery at the place or within the time specified in the contract or as ordered by the IOC.

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- 3) Any goods or services provided under the contract are rejected (for not meeting specification, not conforming to sample, or not being in good condition when delivered) and are not promptly replaced by the vendor. If there are repeated rejections of the vendor's goods or service, this shall be grounds for termination or rescission, even though the vendor offers to replace the goods or services promptly.
 - 4) The vendor is guilty of misrepresentation (for example, misbranding of food or drugs) in connection with another contract for the sale of goods or services to the IOC so that the vendor cannot reasonably be depended upon to fulfill his obligations as a responsible vendor under any contracts with the IOC.
 - 5) The vendor ~~is~~ should be adjudged bankrupt; ~~enters~~ enters into a general assignment for the benefit of his or her creditors or into receivership due to insolvency; ~~disregards or disregard~~ disregards laws and ordinances, rules, or instructions of the IOC; or ~~acts~~ acts in violation of any provision of the contract or this Part; or if the contract conflicts with any statutory or constitutional provision of the State of Illinois or of the United States.
 - 6) Any other breach of contract or other unlawful act by the vendor, its agents and/or subcontractor.
- e) Cancellation for Fraud, Collusion and; Illegality; ~~Etc.~~
The IOC may cancel any contract it established if there is sufficient evidence to show that:
- 1) The contract was obtained by fraud, collusion, conspiracy, or other unlawful means; or
 - 2) The contract conflicts with any statutory provision of the State of Illinois or of the United States.
- f) Withholding Money to Compensate State for Damages:
If a contract is terminated or rescinded under this Section, the IOC may deduct from whatever is owed the vendor on that or any other contract an amount sufficient to compensate the State of Illinois for any damages suffered by it because of the vendor's breach of contract or other unlawful act on the vendor's

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part on which the cancellation is based.

- g) **Damages-**
The damages for which the IOC may be compensated as provided in this Section or by a suit on the vendor's performance bond or by other legal remedy shall include, but are not limited to, the following:
- 1) the additional cost of goods or services bought elsewhere;
 - 2) cost of repeating the procurement procedure;
 - 3) any expenses incurred because of delay in receipt of goods or services;
and
 - 4) any other damages caused by the vendor's breach of contract or unlawful act.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.5540 Violation of Statute or Rule

- a) **Determination that Solicitation or Award Violates Law-**
If the ~~Procurement Officer~~**SPO** finds that the solicitation or proposed award is in violation of statute or rule, the ~~CPO~~**SPO** may cancel the solicitation or proposed award, or make modifications to correct the violation, if such correction may be legally accomplished.
- b) **Determination that Contract Violates Statute or Rule-**
Contracts based on awards or solicitations that were in violation of law shall be terminated at no cost to the IOC.
- c) **Effect of Declaring a Contract Null and Void-**
In all cases in which a contract is voided, the IOC shall endeavor to return those supplies delivered under the contract that have not been used or distributed. No further payments shall be made under the contract.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.5550 Protests

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- a) ~~Protest Resolution by the CPOSPQ.~~
An actual or prospective bidder, offeror, or contractor that may be aggrieved in connection with a procurement may file a protest on any phase of solicitation or award, including but not limited to specifications preparation, bid solicitation, or award.
- b) ~~Complaint.~~
Complainants should seek resolution of their complaints initially with the IOC. ~~Complaints~~Such complaints may be made verbally or in writing.
- c) ~~Filing of Protest.~~
- 1) Protests shall be made in writing to the ~~CPOSPQ~~ and shall be filed within 7 calendar days after the protester knows or should have known of the facts giving rise to the protest. A protest is considered filed when physically received by the ~~Procurement Officer~~SPO. Protests filed after the 7 calendar day period shall not be considered. With respect to a protest regarding specifications, the protest must be received within 7 calendar days after the date the solicitation was issued, and in any event must be received by the IOC at the designated address before the date for opening of bids or proposals.
 - 2) To expedite handling of protests, the envelope should be labeled "Protest". The written protest shall include as a minimum the following:
 - A) the name and address of the protester;
 - B) appropriate identification of the procurement, and, if a contract has been awarded, its number;
 - C) a statement of reasons for the protest; and
 - D) supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time, in which case the expected availability date shall be indicated.
- d) ~~Requested Information; Time for Filing.~~
Any additional information requested by the IOC shall be submitted within the

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time periods established by the requesting source in order to expedite consideration of the protest. Failure of the protesting party to comply expeditiously with a request for information by the ~~Procurement Officer~~~~SPO~~ may result in resolution of the protest without consideration of that information.

- e) ~~Stay of Procurements During Protest.~~
When a protest has been timely filed and before an award has been made, the ~~CPO~~~~SPO~~ shall make no award of the contract and any award made shall be stayed until the protest has been resolved. The ~~Comptroller~~~~CPO~~ may authorize award or reinstate the contract if necessary to protect the interests of the State.
- f) ~~Decision by the CPO~~~~or SPO.~~
Time for Decisions. A decision on a protest shall be made by the ~~CPO~~~~SPO~~ as expeditiously as possible after receiving all relevant requested information. If a protest is sustained, the available remedies include, but are not limited to, reversal of award and cancellation or revision of the solicitation.
- g) ~~Effect of Judicial or Administrative Proceedings.~~
If an action concerning the protest has commenced in court, the ~~CPO~~~~or SPO~~ shall not act on the protest but shall refer the protest to the IOC's Chief Legal Counsel.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.5560 Hearings and Decisions

- a) The CPO shall conduct public hearings prior to awarding contracts for sole source procurements pursuant to Section 20-25 and before extending emergency procurements pursuant to Section 20-30.
- b) Notice of hearings shall be published in the Bulletin at least 14 days prior to the date of the public hearing.
- 1) All notices shall include the date, time and location of the public hearing.
- 2) Notices for sole source procurements shall include the sole source procurement justification form, a description of the item to be procured, and the intended sole source contractor.

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- 3) Notices for extending emergency procurements shall include the CPO's written justification for the emergency contract and the name of the contractor.
- c) A copy of the notice and all documents provided at the hearing shall be included in the subsequent issue of the Bulletin.
- d) The IOC PPB and members of the public may present testimony at the hearings.
- e) The hearings shall be held in the offices of the Comptroller or at some other convenient location readily accessible to members of the public.
- f) The CPO or his or her designee shall preside over the hearings and shall issue a written determination within 14 calendar days after the conclusion of the hearing.
- g) Copies of all statements and exhibits introduced at the hearings, written determination of the CPO or designee, and a summary of the proceedings at the hearings shall be included in the appropriate procurement files.

(Source: Added at 36 Ill. Reg. _____, effective _____)

SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section 1120.7015 Inspections

- a) **Inspection of Plant or Site-**
The IOC may enter a contractor's or subcontractor's plant or place of business to:
 - 1) inspect supplies or services for acceptance by the State pursuant to the terms of a contract;
 - 2) audit the books and records of any contractor or subcontractor pursuant to Section 1120.7020 ~~(Records and Audits)~~ of this Part;
 - 3) investigate an action to debar or suspend a person from consideration for award of contracts pursuant to the Code;
 - 4) determine whether the standards of responsibility have been met or are capable of being met;

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- 5) determine if the contract is being performed in accordance with its terms; and
 - 6) accomplish any other purpose permitted by law.
- b) Inspection and Testing of Supplies and Services:
- 1) Solicitation and Contractual Provisions. State contracts may provide that the IOC may inspect supplies and services at the contractor's or subcontractor's facility and perform tests to determine whether they conform to solicitation requirements, or, after award, to contract requirements, and are therefore acceptable. ~~Inspections~~Such inspections and tests shall be conducted in accordance with the terms of the solicitation and contract.
 - 2) Procedures for Trial Use and Testing. The ~~CPO~~Comptroller's Director of Administrative Services may establish operational procedures governing the testing and trial use of equipment, material, and other supplies, and the application of resulting information and data to specifications or procurements.
- c) Conduct of Inspections:
- 1) Inspectors. Inspections or tests shall be performed so as not to unduly delay the work of the contractor or subcontractor. No inspector ~~other than the SPO~~ may change any provision of the specifications or the contract without ~~the~~ written authorization of the ~~CPO~~SPO. The presence or absence of an inspector shall not relieve the contractor or subcontractor from any requirements of the contract.
 - 2) Location. When an inspection is made in the plant or place of business of a contractor or subcontractor, ~~thesuch~~ contractor or subcontractor shall provide without charge all reasonable facilities and assistance for the safety and convenience of the person performing the inspection or testing.
 - 3) Time. Inspection or testing of supplies and services performed at the plant or place of business of any contractor or subcontractor shall be performed at reasonable times.

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(Source: Amended at 36 Ill. Reg. _____, effective _____)

Section 1120.7025 Written Determinations

- a) **Preparation and Execution-**
When the Code or this Part requires a written determination, the Procurement Officer~~officer required to prepare the determination~~ may delegate its preparation, but the responsibility for and the execution of the determination shall not be delegated.
- b) **Content-**
Each written determination shall set out sufficient facts, circumstances, and reasoning as will substantiate the specific determination that is made.
- c) **Obtaining Supporting Information-**
While the Procurement Officer~~an officer~~ is responsible for the execution of the written determination, other State personnel, particularly technical personnel, are responsible for furnishing to the Procurement Officer~~recognizant official~~, in an accurate and adequate fashion, the information pertinent to the determination. When requested, thesuch information shall be furnished in writing to the Procurement Officer~~recognizant official~~ who shall have the authority to decide the final form and content of the determination and to resolve any questions or conflicts arising with respect to the determination.
- d) **Forms-**
The CPO~~Comptroller's Director of Administrative Services~~ shall prescribe methods and operational procedures to be used in preparing written determinations.
- e) **Retention-**
Each written determination shall be filed in the solicitation or contract file to which it applies, shall be retained as part of thatsuch file for so long as the file is required to be maintained, and, except as otherwise provided by statute or rule, shall be open to public inspection.

(Source: Amended at 36 Ill. Reg. _____, effective _____)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Extensions of Jurisdiction
- 2) Code Citation: 80 Ill. Adm. Code 305
- 3) Section Number: 305.290 Adopted Action: New Section
- 4) Statutory Authority: Implementing and authorized by Section 4b of the Personnel Code [20 ILCS 415/4b]
- 5) Effective Date of Amendment: July 25, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 36 Ill. Reg. 5652; April 13, 2012
- 10) Has JCAR issued a Statement of Objection to this Amendment? No
- 11) Differences between proposal and final version. The effective date of the rulemaking was changed from July 1, 2012 to July 25, 2012.
- 12) Have all of the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes, all changes have been made.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: The Department of Central Management Services (CMS) is amending the Extensions of Jurisdiction (80 Ill. Adm. Code 305) by adding Section 305.290 to reflect six Memoranda of Understanding between the American Federation of State, County and Municipal Employees (AFSCME) and the State of Illinois. The first Memorandum of Understanding (MOU) pertains to the non-Personnel-Code Nuclear Safety Information Specialist II title at the Department of

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Central Management Services' Illinois Office of Communication and Information and was signed July 10, 2009. The second MOU pertains to the non-Personnel-Code Management Secretary I at the Illinois Commerce Commission and was signed September 17, 2009. The third MOU pertains to the non-Personnel-Code Human Resource Analyst at the Illinois Commerce Commission and was signed June 30, 2010. The fourth MOU pertains to the non-Personnel-Code Senior Financial and Budget Assistant at the Illinois Commerce Commission and was signed August 11, 2010. The fifth MOU pertains to the non-Personnel-Code Human Resource Clerk at the Illinois Commerce Commission and was signed October 18, 2010. The sixth MOU pertains to the non-Personnel-Code Transportation Industry Customer Service Representative I at the Illinois Commerce Commission and was signed December 16, 2009.

- 16) Information and questions regarding this adopted amendment shall be directed to:

Mary Matheny
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield, Illinois 62706

217/557-5404

The full text of the Adopted Amendment begins on the next page.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICESPART 305
EXTENSIONS OF JURISDICTION

Section

305.50	Extends Jurisdiction A, B & C
305.60	Extends Jurisdiction A, B & C (July 1, 1970)
305.70	Extends Jurisdiction A, B & C (July 1, 1970)
305.80	Extends Jurisdiction A, B & C (August 1, 1970)
305.90	Extends Jurisdiction A, B & C (August 1, 1971)
305.100	Extends Jurisdiction A, B & C (November 16, 1971)
305.110	Extends Jurisdiction A, B & C (April 1, 1972)
305.120	Extends Jurisdiction A, B & C (May 1, 1972)
305.130	Extends Jurisdiction A & C (October 1, 1972)
305.140	Extends Jurisdiction A & C (October 1, 1972)
305.150	Extends Jurisdiction A, B and C (November 1, 1972)
305.160	Extends Jurisdiction B, Except 8b.1, 8b.3 and 8b.5 (January 1, 1973)
305.170	Extension of Jurisdiction
305.180	Termination of Extension of Jurisdiction
305.190	Extension of Jurisdiction
305.200	Third Extension of Jurisdiction to Office of the Treasurer
305.210	Extends Jurisdiction A, B and C (December 1, 1998)
305.220	Extends Jurisdiction A, B and C (December 1, 1998)
305.230	Extends Jurisdiction A, B and C (July 16, 2002)
305.240	Extends Jurisdiction A, B and C (April 7, 2005)
305.250	Extends Jurisdiction A, B and C (January 16, 2006)
305.260	Extends Jurisdiction A, B and C (November 30, 2008)
305.270	Extends Jurisdiction A, B and C (December 30, 2009)
305.280	Extends Jurisdiction A, B and C (June 1, 2011)
<u>305.290</u>	<u>Extends Jurisdiction A, B and C (July 25, 2012)</u>

AUTHORITY: Implementing and authorized by Section 4b of the Personnel Code [20 ILCS 415/4b].

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

SOURCE: Filed May 29, 1975; emergency amendment at 2 Ill. Reg. 46, p. 3, effective January 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 1, p. 61, effective January 1, 1979; codified at 7 Ill. Reg. 13214; amended at 10 Ill. Reg. 21643, effective December 15, 1986; amended at 22 Ill. Reg. 21302, effective December 1, 1998; emergency amendment at 26 Ill. Reg. 12060, effective July 16, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16150, effective October 18, 2002; emergency amendment at 29 Ill. Reg. 5751, effective April 7, 2005, for a maximum of 150 days; emergency expired September 3, 2005; amended at 29 Ill. Reg. 14530, effective September 14, 2005; emergency amendment at 30 Ill. Reg. 1378, effective January 16, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 9321, effective May 4, 2006; amended at 32 Ill. Reg. 18931, effective November 30, 2008; amended at 34 Ill. Reg. 834, effective December 30, 2009; amended at 35 Ill. Reg. 8982, effective June 1, 2011; amended at 36 Ill. Reg. 12811, effective July 25, 2012.

Section 305.290 Extends Jurisdiction A, B and C (July 25, 2012)

- a) Effective July 25, 2012, the Personnel Code Jurisdictions A, B and C will be extended to the Department of Central Management Services' Illinois Office of Communication and Information position performing work as a Nuclear Safety Information Specialist II and to the Illinois Commerce Commission positions performing work as Management Secretary I, Human Resource Analyst, Senior Financial and Budget Assistant, Human Resource Clerk, or Transportation Industry Customer Service Representative I.
- b) With the exception of those employees who have already been determined qualified, the affected employees cited in subsection (a) will be required to qualify within six months in the same kind of examination as those required for entrance examinations for comparable positions. All other appointments subsequent to July 25, 2012 will be made pursuant to provisions of the Illinois Personnel Code and the rules of the Department of Central Management Services (see 80 Ill. Adm. Code 301, 302, 303, 304, 310 and 320). No provision of this Section in any way affects the status of employees already holding certified status under the Illinois Personnel Code. All other provisions of the Illinois Personnel Code and rules of the Department of Central Management Services will apply to the affected employees effective July 25, 2012.

(Source: Added at 36 Ill. Reg. 12811, effective July 25, 2012)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Medication
- 2) Code Citation: 11 Ill. Adm. Code 603
- 3) Section Number: 603.60 Adopted Action:
Amend
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Rulemaking: August 1, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporation by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's central office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 36 Ill. Reg. 5954; April 20, 2012
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? No agreements were necessary.
- 13) Will this amendment replace any emergency amendments currently in effect? Yes
- 14) Are there any other proposed amendments pending in this Part? No
- 15) Summary and purpose of rulemaking: This proposed rulemaking lowers the threshold level for phenylbutazone from 5 micrograms to 2 micrograms for graded thoroughbred stakes races pursuant to TOBA's American Graded Stakes Committee drug testing protocol. Penalties for overages are consistent with the RCI model rules.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Mickey Ezzo

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

Illinois Racing Board
100 West Randolph, Suite 7-701
Chicago, Illinois 60601

312/814-5017

The full text of the Adopted Amendment begins on the next page:

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER c: RULES APPLICABLE TO ALL OCCUPATION LICENSEES

PART 603
MEDICATION

Section	
603.10	Pre-Race Saliva Tests
603.20	Racing Soundness Exam
603.30	Foreign Substances and Pharmaceutical Aids Banned
603.40	Twenty-four Hour Ban
603.50	Trainer Responsibility
603.55	Prima Facie Evidence
603.60	Permitted Use of Foreign Substances and Threshold Levels
603.70	Furosemide
603.75	Environmental Contaminants
603.80	Needles, Syringes and Injectables
603.90	Drugs, Chemicals and Prescription Items
603.100	Detention Barn
603.110	Test Samples
603.120	Referee Samples
603.130	Laboratory Findings and Reports
603.140	Distribution of Purses
603.150	Post Mortems
603.160	Penalties
603.170	Veterinarian's Records
603.180	Carbon Dioxide Tests
603.190	Erythropoietin and Darbepoietin Antibody Testing Program
603.200	Out of Competition Testing
603.210	Androgenic-Anabolic Steroids (AAS)

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Adopted at 21 Ill. Reg. 3232, effective March 4, 1997; amended at 22 Ill. Reg. 2217, effective January 1, 1998; amended at 22 Ill. Reg. 3594, effective February 1, 1998; amended at 25 Ill. Reg. 15611, effective December 1, 2001; amended at 26 Ill. Reg. 12360, effective August

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1, 2002; amended at 27 Ill. Reg. 5027, effective March 7, 2003; amended at 27 Ill. Reg. 7331, effective April 15, 2003; amended at 28 Ill. Reg. 1374, effective January 19, 2004; amended at 28 Ill. Reg. 4751, effective March 1, 2004; emergency amendment at 28 Ill. Reg. 7565, effective May 11, 2004, for a maximum of 150 days; emergency expired October 7, 2004; amended at 28 Ill. Reg. 11250, effective August 1, 2004; amended at 28 Ill. Reg. 15790, effective December 1, 2004; emergency amendment at 29 Ill. Reg. 2779, effective February 22, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 4116, effective February 25, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5726, effective April 8, 2005; amended at 29 Ill. Reg. 12265, effective July 24, 2005; amended at 29 Ill. Reg. 14038, effective September 1, 2005; emergency amendment at 30 Ill. Reg. 14371, effective August 21, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18729, effective November 20, 2006; amended at 31 Ill. Reg. 1478, effective January 1, 2007; emergency amendment at 31 Ill. Reg. 6680, effective April 23, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 12982, effective September 1, 2007; amended at 32 Ill. Reg. 7397, effective May 1, 2008; amended at 33 Ill. Reg. 12571, effective August 25, 2009; expedited correction at 34 Ill. Reg. 9551, effective August 25, 2009; emergency amendment at 35 Ill. Reg. 265, effective December 17, 2010, for a maximum of 150 days; emergency amendment at 35 Ill. Reg. 2810, effective February 1, 2011, for a maximum of 150 days; amended at 35 Ill. Reg. 7400, effective April 25, 2011; amended at 35 Ill. Reg. 8485, effective May 23, 2011; emergency amendment at 35 Ill. Reg. 15296, effective September 6, 2011, for a maximum of 150 days; emergency rule repealed by emergency amendment at 35 Ill. Reg. 18434, effective October 24, 2011, for the remainder of the 150 days; amended at 36 Ill. Reg. 330, effective January 1, 2012; emergency amendment at 36 Ill. Reg. 3290, effective February 15, 2012, for a maximum of 150 days; emergency amendment at 36 Ill. Reg. 6057, effective April 6, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 8967, effective June 1, 2012; amended at 36 Ill. Reg. 12815, effective August 1, 2012.

Section 603.60 Permitted Use of Foreign Substances and Threshold Levels

- a) Non-Steroidal Anti-Inflammatories (NSAID): Threshold Levels
 - 1) Only one non-steroidal anti-inflammatory drug (NSAID) may be present in a horse's body while it is participating in a race. The presence of more than one NSAID, greater than the threshold level, is forbidden and will result in the purse being redistributed.
 - 2) Subject to the prohibition contained in Section 603.40 (24 hour ban), the only foreign substances that now meet the criteria established in Section 603.80 are phenylbutazone (or its metabolite oxyphenylbutazone), flunixin, pyrilaramine, isoxsuprine and ketoprofen.

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- 3) The threshold level of phenylbutazone shall be less than 5.0 micrograms (mcg) per milliliter (ml) of serum or plasma. The threshold level for oxyphenylbutazone shall be less than 5.0 mcg/ml of serum or plasma. However, the threshold levels of phenylbutazone and oxyphenylbutazone for graded thoroughbred stakes races shall be less than 2.0 micrograms per milliliter of serum or plasma.
- A) In the event a post-race sample from a horse contains an amount of phenylbutazone or oxyphenylbutazone greater than or equal to 2.0 micrograms but less than 5.0 micrograms of serum or plasma, the trainer shall be subject to a written warning.
- BA) Within a 365 day period, in the event a post-race sample from a horse contains an amount of phenylbutazone or oxyphenylbutazone greater than or equal to 5.0 mcg/ml but less than 10.0 mcg/ml of serum or plasma, the trainer shall be subject to the following penalties absent mitigating circumstances:
- i) first offense, minimum fine of \$250;
 - ii) second offense, minimum fine of \$500;
 - iii) third or subsequent offense, minimum fine of \$1,000 and a 15 day suspension.
- CB) Within a 365 day period, in the event a post-race sample from a horse contains an amount of phenylbutazone or oxyphenylbutazone greater than or equal to 10.0 mcg/ml of serum or plasma, the trainer shall be subject to the following penalties absent mitigating circumstances:
- i) first offense, minimum fine of \$500 and the purse shall be redistributed;
 - ii) second offense, minimum fine of \$1,000, a 15 day suspension and the purse shall be redistributed;

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- iii) third or subsequent offense, minimum fine of \$2,500, a 30 day suspension and the purse shall be redistributed.
- 4) The threshold level of flunixin shall be less than 20.0 ng/ml of serum or plasma and the threshold level of ketoprofen shall be less than 10.0 ng/ml of serum or plasma. In the event a post-race sample from a horse contains an amount of:
- A) flunixin greater than or equal to 20.0 ng/ml but less than 100.0 ng/ml or ketoprofen greater than or equal to 10.0 ng/ml but less than 50.0 ng/ml, the trainer shall be subject to the following penalties, within a 365 day period, and absent mitigating circumstances:
 - i) first offense, minimum fine of \$250;
 - ii) second offense, minimum fine of \$500;
 - iii) third or subsequent offense, minimum fine of \$1,000 and a 15 day suspension.
 - B) flunixin greater than or equal to 100.0 ng/ml or ketoprofen greater than or equal to 50.0 ng/ml, the trainer shall be subject to the following penalties, within a 365 day period, and absent mitigating circumstances:
 - i) first offense, minimum fine of \$500 and the purse shall be redistributed;
 - ii) second offense, minimum fine of \$1,000, a 15 day suspension and the purse shall be redistributed;
 - iii) third or subsequent offense, minimum fine of \$2,500, a 30 day suspension and the purse shall be redistributed.
- 5) If the phenylbutazone, oxyphenylbutazone, flunixin or ketoprofen overage is due to the negligence of the veterinarian attending the horse, the veterinarian shall be subject to the same penalties as are set forth in subsections (a)(3)(A) and (B) and (a)(4)(A) and (B).

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- 6) To help horsemen determine the test levels of phenylbutazone, oxyphenylbutazone, flunixin, pyrilamine, isoxsuprine and ketoprofen, the Board laboratory will test, for the actual cost of processing the sample, all equine serum or plasma samples submitted to it that are accompanied by an affidavit indicating time, method, and route of administration.
- 7) Penalties for violations of this Section shall be based on the following criteria:
 - A) previous warnings and rulings for violations of this Section;
 - B) the age and experience of the violator;
 - C) whether the violator has ever been the subject of a medication ruling in this or any other racing jurisdiction;
 - D) what action, if any, was taken to avoid the violation;
 - E) the purse of the race.
- b) The following foreign substances may be administered externally to a horse entered to a race: Leg paints and liniment that do not contain any "caine" derivatives, pharmacodynamic and/or chemotherapeutic agents, and that can be applied topically without penetrating the skin.
- c) Subject to the prohibition contained in Section 603.40 (24-hour ban), the following foreign substances, commonly referred to as anti-bacterial, anti-fungal, anti-protozoal or anti-ulcer drugs, may be present in the body of a horse participating in a race.
 - 1) Anti-Bacterials
 - Amikacin
 - Ampicillin
 - Ampicillin sodium
 - Azolsulfamide
 - Chloramphenicol
 - Doxycycline

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Enrofloxacin (Baytril)
Erythromycin sulfate
Gentamicin sulfate
Kanamycin sulfate
Methenamine
Metronidazole
Neomycin sulfate
Nitrofurantoin
Oxytetracycline
Penicillin G. Benzathine
Penicillin G. Potassium
Sulfadimethozine
Sulfadimethoxine
Sulfamethoxazole
Sulfametranidazole
Sulfapyridine
Sulfathiazole
Tetracycline
Trimethoprim

2) Anti-Fungals

Amphotericin B
Griseofulvin
Neomycin Undecylenate
Nystatin

3) Anti-Protozoals

Nitazoxanide (Navigator)
Ponazuril (Marquis)
Pyrimethamine (Daraprim)

4) Anti-Ulcers

Cimetidine (Tagamet)
Omeprazole (Prilosec or GastroGard)
Ranitidine (Zantac)

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- d) This listing of anti-bacterial, anti-fungal, anti-protozoal and anti-ulcer drugs is all inclusive and shall not include any other anti-bacterial, anti-fungal, anti-protozoal or anti-ulcer drug.
- e) A foreign substance of accepted therapeutic value may be administered as prescribed by a veterinarian when threshold levels and guidelines for its use have been approved by the Board and this Part has been duly amended. The Board shall give due consideration to threshold levels and guidelines, when making additions to the permitted list, that have been established by the Quality Assurance Program Committee of the Association of Racing Commissioners International (ARCI, 1510 Newtown Pike, Suite 210, Lexington, KY 40511; December 2011 version 3.00; this incorporation includes no later amendments or editions).
- f) Official test samples may contain the following drug substance, or its metabolites, in an amount that does not exceed the threshold level:
 - 1) The threshold level of isoxsuprine shall be less than 1,000.0 ng/ml in urine.
 - 2) The threshold level of pyrilamine shall be less than 50.0 ng/ml in urine.
- g) The provisions of this Section shall be applied retroactively when substantively applicable, including all actions pending before the Board without regard to when the cause of action accrued; provided, however, that this subsection shall not operate to affect rights of individuals that have fully vested.

(Source: Amended at 36 Ill. Reg. 12815, effective August 1, 2012)

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NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Regulations for Meetings (Thoroughbred)
- 2) Code Citation: 11 Ill. Adm. Code 1424
- 3) Section Number: 1424.370 Adopted Action:
New Section
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Rulemaking: August 1, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporation by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's central office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 36 Ill. Reg. 5961; April 20, 2012
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 14) Are there any other proposed amendments pending in this Part? No
- 15) Summary and purpose of rulemaking: This proposed rulemaking requires thoroughbred racetracks to post a summary of their on-track accident insurance coverage for jockeys and make available upon request, a copy of the policy.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Mickey Ezzo
Illinois Racing Board

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

100 West Randolph, Suite 7-701
Chicago, Illinois 60601

312/814-5017

The full text of the Adopted Amendment begins on the next page:

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NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER g: RULES AND REGULATIONS OF HORSE RACING
(THOROUGHBRED)

PART 1424
REGULATIONS FOR MEETINGS
(THOROUGHBRED)

Section

1424.10	Illinois Racing Board Right of Entry
1424.20	Office for Racing Board
1424.25	Moving Offices (Repealed)
1424.40	Inspections and Searches (Repealed)
1424.45	Investigative Authority
1424.50	Allocation of Stalls
1424.55	AGID (Coggins) Test (Repealed)
1424.60	Distance Poles
1424.70	Arrivals, Departures and Stabling
1424.80	Departure Slips
1424.90	Horse Ambulance
1424.100	Races Per Day (Repealed)
1424.110	Extra Races
1424.120	Clockers
1424.125	Outriders
1424.140	Safety Rails
1424.150	Backstretch Paging System
1424.160	Camera
1424.170	Emergency Medical Services
1424.175	Manned Ambulance (Repealed)
1424.180	Policing of Premises
1424.190	Stable Area Security
1424.200	Stable Area Security
1424.210	Security Reports
1424.220	Night Patrol
1424.230	Telephones
1424.240	Calls Through Switchboard (Repealed)
1424.250	Races for Illinois Horses

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1424.260	Breeder Awards
1424.270	Admission to Parts of Premises
1424.280	Stable Areas Fenced
1424.290	Merchandise Selling
1424.300	Tip Sheets
1424.310	Alcoholic Beverages
1424.320	Jockey Quarters
1424.330	Water Supply and Washrooms
1424.340	Drug Vendors
1424.350	Seven Day Rule
1424.353	Penalty for Violation of Rules
1424.355	Stall Availability Prior to Meet
1424.360	Notification of Change
<u>1424.370</u>	<u>Posting of Jockey Accident Insurance Coverage</u>

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Published in Rules and Regulations of Horse Racing (original date not cited in publication); added October 25, 1973, filed November 26, 1973; added August 8, 1973; amended February 15, 1974, filed February 28, 1974; amended April 11, 1974, filed April 30, 1974; amended July 12, 1974, filed July 22, 1974; amended October 25, 1974, filed November 7, 1974; amended March 14, 1975, filed and effective March 27, 1975; amended May 9, 1975, filed May 15, 1975; amended June 19, 1976, filed June 25, 1976; amended December 9, 1977, filed December 29, 1977; amended at 4 Ill. Reg. 41, p. 164, effective September 26, 1980; codified at 5 Ill. Reg. 10996; amended at 8 Ill. Reg. 12460, effective June 27, 1984; amended at 9 Ill. Reg. 9166, effective May 30, 1985; amended at 14 Ill. Reg. 20545, effective December 7, 1990; amended at 16 Ill. Reg. 7493, effective April 24, 1992; amended at 16 Ill. Reg. 11193, effective June 25, 1992; amended at 17 Ill. Reg. 3038, effective February 23, 1993; emergency amendment at 23 Ill. Reg. 7779, effective June 28, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13943, effective November 2, 1999; amended at 28 Ill. Reg. 6605, effective April 19, 2004; amended at 31 Ill. Reg. 16536, effective December 1, 2007; amended at 32 Ill. Reg. 16502, effective October 1, 2008; amended at 36 Ill. Reg. 12824, effective August 1, 2012.

Section 1424.370 Posting of Jockey Accident Insurance Coverage

- a) Each organization licensee shall have on file with the Board a copy of the actual insurance policy and shall post in the jockeys' room a summary of the licensee's on-track insurance coverage for jockeys who are injured while acting in the

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performance of their duties as a jockey on the grounds of the licensee. Upon request, the licensee shall provide a copy of the insurance policy to any licensed jockey participating in the race meeting. Requests shall be made in writing to the licensee's General Manager.

- b) In the event the insurance policy is changed during a race meeting, the licensee shall promptly post notice in the jockeys' room of any changes.

(Source: Added at 36 Ill. Reg. 12824, effective August 1, 2012)

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- 1) Heading of the Part: Dismissal of Tenured Teachers Under Article 24 and Dismissal of Tenured Teachers and Principals Under Article 34 of the School Code
- 2) Code Citation: 23 Ill. Adm. Code 51
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
51.10	Amendment
51.20	Amendment
51.30	Amendment
51.35	New Section
51.40	Amendment
51.55	Amendment
51.60	Amendment
51.70	Amendment
51.75	New Section
51.80	Repeal
51.200	New Section
51.210	New Section
51.220	New Section
51.230	New Section
51.240	New Section
51.250	New Section
51.260	New Section
51.270	New Section
51.280	New Section
51.290	New Section
- 4) Statutory Authority: 105 ILCS 5/24-12 and 34-85
- 5) Effective Date of Amendments: July 25, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes, see Section 51.40(h).
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: February 17, 2012; 36 Ill. Reg. 2502

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- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: In Section 51.10, the definition of "day" was modified to reference the provisions of 5 ILCS 70/1.11, and a definition was added for "general superintendent".

The requirements in Section 51.30(b) regarding notices provided to teachers and principals in City of Chicago School District 299 were amended. Further, acknowledgement was made in Section 51.30(a) that there is a possibility of failing to locate teachers in a school district outside of Chicago by using U.S. mail or personal delivery, so an alternative process is provided. Additional nonsubstantive changes were made in this Section to provide clarity.

In Section 51.35(a), recognition was made that setoffs for mitigation can be considered when providing loss salary and benefits to a teacher who is not dismissed.

Section 51.40(a)(2)(B) was reorganized to make its requirements clearer.

Section 51.40(b)(2) now includes statutory language regarding a teacher or principal's right to proceed first when striking names from the list of qualified hearing officers.

Section 51.40(e) was modified to allow for a new hearing officer appointed after the start of a hearing to adopt the previous hearing officer's findings; the new hearing officer must consider arguments presented by both parties before doing so, however.

Minor wording changes were made in Sections 51.55(c) and 51.60(c)(14).

A provision was added to Section 51.60(a) to allow the parents or representative of a minor providing testimony to be present while the minor is testifying.

Section 51.60(c)(3) was strengthened relative to the requirement that witnesses can be taken out of order, if the parties agree to do so.

In Section 51.60(d)(5), a requirement was added relative to the filing of documents after an evidentiary portion of the hearing to ensure that the party filing the documents submits them to the other party.

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In Section 51.70(b)(3), the terms "written order" and "decision of the Board" were clarified.

Section 51.70(c) now reiterates that action against a hearing officer who fails to render a timely decision can only be taken in situations "without good cause".

Section 51.75(d) was modified for readability and to correct an error in a cross-reference, as well as to add statutory language in subsection (d)(4) instead of using a paraphrase.

Several other nonsubstantive wording changes were made in response to JCAR.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Amendments: PA 97-8, effective June 13, 2011, amended the processes set forth in Sections 24-12 and 35-85 of the School Code [105 ILCS 5/24-12 and 34-85] for a school district's dismissal of a tenured teacher, as well as the dismissal of a principal in City of Chicago School District 299 (CPS), either for misconduct or due to receipt of an "unsatisfactory" performance evaluation rating. As to the latter cause for dismissal, PA 97-8 also added a provision whereby a school district could dismiss a teacher if the teacher receives a rating of "unsatisfactory" any time within a 36-month period after successfully completing a remediation plan. This dismissal authority is in addition to allowing dismissal of a teacher who received a "needs improvement" or "unsatisfactory" rating following completion of a remediation plan under Section 24A-5 of the School Code [105 ILCS 5/24A-5].

The statutory changes made by P.A. 97-8 and the amendments to Part 51 have several purposes, each of which is described below.

To align the rules to the streamlined process for both performance-related dismissals under Section 24A-5 of the School Code and dismissals for misconduct by shortening the timelines for action.

Provides authority to boards of education to dismiss teachers due to misconduct.
Provides authority for all boards of education (including CPS) to pursue a more streamlined dismissal process for poor performance if certain conditions are met.

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Part 51 has been further modified to include much of the explanatory text from the law. Given the significance of dismissal proceedings, it is both a courtesy to the reader and makes sense procedurally for Part 51 to provide the statutory requirements as part of the rules rather than only providing cross-references to where the requirements can be found in the School Code.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Jessica Riddick, Assistant General Counsel
Legal Division
Illinois State Board of Education
100 W. Randolph Street, CH14-300
Chicago, Illinois 60601

312/814-2223

The full text of the Adopted Amendments begins on the next page:

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
 SUBTITLE A: EDUCATION
 CHAPTER I: STATE BOARD OF EDUCATION
 SUBCHAPTER b: PERSONNEL

PART 51

DISMISSAL OF TENURED TEACHERS UNDER ARTICLE 24 AND
 DISMISSAL OF TENURED TEACHERS AND PRINCIPALS
 UNDER ARTICLE 34 OF THE SCHOOL CODE

SUBPART A: GENERAL PROVISIONS

Section

51.10

Definitions

SUBPART B: STANDARD DISMISSAL PROCEDURES
 UNDER ARTICLES 24 AND 34 OF THE SCHOOL CODE

51.20

Applicability of this Subpart B~~Part~~

51.30

~~Dismissal Proceedings~~, Notice of Charges to Tenured Teachers, ~~and Compliance
 with Other Applicable Provisions of the School Code~~

51.35Suspension without Pay

51.40

Qualifications ~~and Selection~~ of Hearing Officers; Conditions of Service

51.50

Suspension Pending the Hearing (Repealed)

51.55

Pre-Hearing Procedures

51.60

The Hearing

51.70

The Decision: School Districts Not Organized under Article 34 of the School
 Code

51.75The Decision: School Districts Organized under Article 34 of the School Code

51.80

Waiver, Interpretation and Application of this Part (Repealed)

SUBPART C: OPTIONAL ALTERNATIVE EVALUATIVE DISMISSAL
 UNDER SECTION 24-16.5 OF THE SCHOOL CODE

Section51.200Purpose and Applicability of this Subpart C51.210Establishment of the List of Second Evaluators; Qualifications51.220Selection of Second Evaluators51.230Use of a Second Evaluator in Specific Remediations

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51.240	Hearing Procedures
51.250	Notice of Dismissal to the Affected Tenured Teacher
51.260	Qualifications and Selection of Hearing Officers
51.270	Scope of the Hearing
51.280	Findings of Fact and Recommendation of the Hearing Officer
51.290	Decision of Board

AUTHORITY: Implementing and authorized by Sections 24-12 and 34-85 of the School Code [105 ILCS 5/24-12 and 34-85].

SOURCE: Rules Prescribed by the State Board of Education Governing the Procedure for the Dismissal of Tenured Teachers in Illinois, adopted February 19, 1976; codified at 8 Ill. Reg. 13739; emergency amendment at 9 Ill. Reg. 13116, effective August 9, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 5807, effective April 2, 1986; emergency amendment at 10 Ill. Reg. 19572, effective October 30, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 5950, effective March 23, 1987; amended at 29 Ill. Reg. 10108, effective June 30, 2005; amended at 32 Ill. Reg. 4824, effective March 21, 2008; amended at 36 Ill. Reg. 12829, effective July 25, 2012.

SUBPART A: GENERAL PROVISIONS

Section 51.10 Definitions

As used in this Part:

"Board" means the local school board and not the State Board of Education.

"Day" means calendar day unless otherwise specified in this Part, and the time within which any action required under this Part must occur shall be determined in accordance with the provisions of Section 1.11 of the Statute on Statutes [5 ILCS 70/1.11].

"General Superintendent" means the chief executive officer of City of Chicago School District 299. (See 105 ILCS 5/34-6.)

"Parties" means the tenured teacher against whom charges are brought and the school board bringing the charges.

"State Board" means the Illinois State Board of Education.

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"Tenured Teacher" means any teacher who has entered upon contractual continued service pursuant to Section 24-11 of the School Code [105 ILCS 5/24-11] and, in school districts [organized under Article 34 of the School Code \[105 ILCS 5/Art. 34\]](#)~~having a population of 500,000 or more~~, a teacher or principal (see Sections 34-84 and 34-85 of the School Code [105 ILCS 5/34-84 and 34-85]).

(Source: Amended at 36 Ill. Reg. 12829, effective July 25, 2012)

[SUBPART B: STANDARD DISMISSAL PROCEDURES
UNDER ARTICLES 24 AND 34 OF THE SCHOOL CODE](#)

Section 51.20 Applicability of this [Subpart B](#)

This [Subpart B](#) applies to the dismissal for reason or cause of a tenured teacher (see Section 51.10 of this Part) under Section 24-12(d) or Section 34-85 of the School Code, other than a [tenured](#) teacher for whom alternative procedures are established in an agreement entered into pursuant to Section 34-85c of the School Code [105 ILCS 5/34-85c]. [That is, this Subpart B applies to dismissals of tenured teachers other than honorable dismissals \(i.e., those set forth in Section 24-12\(a\) or \(b\) of the School Code\), as follows:](#)

- a) [For any tenured teacher who fails to complete a remediation plan with a performance evaluation rating of "satisfactory" or "proficient" or better or who, in accordance with Section 24A-5\(n\) of the School Code, successfully completes a remediation plan but receives a subsequent performance evaluation rating of "unsatisfactory" anytime during the 36 months following the completion of the remediation plan \(see Section 24A-5\(m\) and \(n\) of the School Code\):](#)
- b) [For any tenured teacher who is being dismissed due to conduct that the Board does not consider remediable. \(See Sections 24-12\(d\) and 34-85\(a\) of the School Code.\)](#)

(Source: Amended at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.30 ~~Dismissal Proceedings, Notice of Charges to Tenured Teachers, and Compliance with Other Applicable Provisions of the School Code~~

The ~~approval of charges or a motion for dismissal,~~ provision of notice [of charges](#) to the affected

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tenured teacher, ~~selection of the hearing officer, scheduling of the hearing, and suspension of the teacher pending the hearing~~ shall be as set forth in Section 24-12(d)(1) or ~~Section~~ 34-85 of the School Code, as applicable, and this Section. ~~To comply with Section 24-12 or Section 34-85 of the School Code, as applicable, the notice to the tenured teacher of the charges or motion for dismissal must inform the teacher that he or she has ten days after receiving notice to request in writing that a hearing be scheduled. A motion approved by a board pursuant to Section 24-12 of the School Code or charges approved by the general superintendent pursuant to Section 34-85 of the School Code may include a scheduled date for a hearing, provided that the hearing is scheduled no fewer than 15 nor more than 30 days after the approval of the motion or charges.~~

- a) Notice of Charges for School Districts Not Organized under Article 34 of the School Code
 - 1) The notice shall be mailed by first-class U.S. mail to the tenured teacher and provided either by certified mail, return receipt requested, or personal delivery with receipt, within five days after the Board's adoption of a motion for the dismissal (see Section 24-12(d) of the School Code). If the teacher cannot be found by diligent inquiry, then the charges may be sent by certified mail, return receipt requested, at his or her last known address. A return receipt showing delivery to the teacher's last known address within 20 calendar days after the date of approval of the charges shall constitute proof of service.
 - 2) The notice shall include a bill of particulars and inform the tenured teacher of his or her right to request, in writing to the school district, a hearing within 17 days after receiving the notice (see Section 24-12(d) of the School Code).
 - A) The notice shall inform the tenured teacher of the requirement to copy the State Board on a request for a hearing submitted pursuant to subsection (a)(3) of this Section addressed to the General Counsel, Illinois State Board of Education, 100 W. Randolph Street, Chicago, Illinois 60601.
 - B) In addition, any written notice sent on or after July 1, 2012 shall inform the teacher of the right to request a hearing before a mutually selected hearing officer, with the cost of the hearing officer split equally between the teacher and the Board, or a hearing before a Board-selected hearing officer, with the cost of

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the hearing paid by the Board (Section 24-12(d)(1) of the School Code).

- 3) If the tenured teacher chooses to have a hearing, then the tenured teacher shall submit a request for a hearing in writing to the school district within the timeline set forth in subsection (a)(2) of this Section that specifies his or her desire to have the hearing either before a mutually selected hearing officer or a Board-selected hearing officer. The tenured teacher shall send a copy of his or her request for a hearing to the General Counsel, Illinois State Board of Education, 100 W. Randolph Street, Chicago, Illinois 60601.
 - A) Failure of the tenured teacher to notify the State Board of his or her request for a hearing is not jurisdictional.
 - B) If a tenured teacher fails to specify the method by which a hearing officer is to be selected, then the hearing officer shall be selected as set forth in Section 51.40(a)(3) of this Part.
- b) Notice of Charges for School Districts Organized under Article 34 of the School Code
 - 1) The written notice shall be served upon the tenured teacher within 10 business days after approval of the charges (see Section 34-85(a) of the School Code). For purposes of this subsection (b)(1), "service" shall be by first-class U.S. mail, and also either by certified mail, return receipt requested, or personal delivery. If the tenured teacher cannot be found upon diligent inquiry, then the charges may be served by certified mail, return receipt requested, sent to the tenured teacher's last known address. A return receipt showing delivery to the teacher's last known address within 20 calendar days after the date of approval of the charges shall constitute proof of service. (See Section 34-85(a)(1) of the School Code.)
 - 2) The notice shall include the specifications of the dismissal and inform the tenured teacher of his or her right to request, in writing to the general superintendent, a hearing within 17 days after receiving the notice (see Section 35-85(a) of the School Code).

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- A) The notice shall inform the tenured teacher or principal of the requirement to copy the State Board of Education on a request for a hearing submitted pursuant to subsection (b)(3) of this Section addressed to the General Counsel, Illinois State Board of Education, 100 W. Randolph Street, Chicago, Illinois 60601, if the teacher elects not to participate in the process to select a hearing officer.
- B) In addition, any notice sent on or after July 1, 2012 shall inform the teacher or principal of the right to request a hearing before a mutually selected hearing officer, with the cost of the hearing officer split equally between the teacher or principal and the Board, or a hearing before a qualified hearing officer chosen by the general superintendent, with the cost of the hearing officer paid by the Board (Section 34-85(a)(1) of the School Code).
- 3) If the tenured teacher chooses to have a hearing, then the tenured teacher shall submit a request for a hearing in writing to the general superintendent within the timeline set forth in subsection (b)(2) of this Section that specifies his or her desire to have the hearing either before a mutually selected hearing officer or a hearing officer selected by the general superintendent. If the tenured teacher elects not to participate in the process to select a hearing officer, then he or she shall send a copy of his or her request for a hearing to the General Counsel, Illinois State Board of Education, 100 W. Randolph Street, Chicago, Illinois 60601.
- A) Failure of the tenured teacher to notify the State Board of Education on his or her request for a hearing is not jurisdictional.
- B) If a tenured teacher fails to specify the method by which a hearing officer is to be selected, then the hearing officer shall be selected as set forth in Section 51.40(b)(3) of this Part.

(Source: Amended at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.35 Suspension without Pay

- a) For school districts not organized under Article 34 of the School Code, if, in the opinion of the Board, the interests of the school require it, the Board may suspend

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the teacher without pay, pending the hearing, but if the Board's dismissal or removal is not sustained, the teacher shall not suffer the loss of any salary or benefits, less setoffs for mitigation, by reason of the suspension (Section 24-12(d)(1) and (d)(8) of the School Code).

- b) For a school district organized under Article 34 of the School Code, the general superintendent or his or her designee may make the determination to suspend the tenured teacher without pay in accordance with rules prescribed by the Board, provided that, if the teacher or principal charged is not dismissed based on the charges, he or she must be made whole for lost earnings, less setoffs for mitigation (Section 34-85(a)(2) of the School Code).

(Source: Added at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.40 **Qualifications and Selection of Hearing Officers; Conditions of Service**

- a) Master List of Hearing Officers and Selection of Hearing Officers – School Districts Not Organized under Article 34 of the School Code
- 1) The State Board shall maintain a master list of qualified impartial hearing officers in accordance with Section 24-12(d)(3) of the School Code. Each hearing officer ~~on the master list maintained~~proposed by the State Board ~~of Education~~ shall possess the following qualifications:
- A)1) He or she *must be accredited by a national arbitration organization and have had a minimum of 5 years of experience directly related to labor and employment relations matters between employers and employees or their exclusive bargaining representatives* (Section 24-12(d)(3) of the School Code)~~must be accredited by a national arbitration association.~~
- B)2) He or she must ~~not~~ be a ~~resident~~non-resident of the school district involved in the hearing ~~(see Section 24-12(d)(3) of the School Code) at the time of the hearing, unless the hearing involves a school district organized pursuant to Article 34 of the School Code.~~
- C)3) He or she must be disinterested and impartial.

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- D)4) He or she must have no financial or personal interest in the result of the hearing.
- E) Beginning on September 1, 2012, he or she must have successfully completed the training provided or approved by the State Board specific to issues generally involved in evaluative and non-evaluative dismissals (Section 24-12(d)(3) of the School Code).
- F) He or she must be available to commence the hearing within 75 days and conclude the hearing within 120 days after being selected as hearing officer (Section 24-12(d) of the School Code).
- 2) A hearing officer shall be selected as set forth in Section 24-12(d)(3) of the School Code and this subsection (a)(2) if the tenured teacher has requested a hearing before a mutually selected hearing officer.
- A) The State Board shall, from the master list, provide, on a rotating basis, a list of five prospective hearing officers within five business days after receiving a copy of the tenured teacher's request for a hearing.
- B) Within three business days after receiving the list of prospective hearing officers, the Board and the teacher, or their legal representatives, shall either:
- i) alternately strike one name from the list until one name remains (unless waived by the teacher, the teacher shall have the right to strike first); or
- ii) reject all prospective hearing officers on the list, in which case, the party rejecting the entire list shall notify the State Board and the other party. (See Section 24-12(d)(3) of the School Code.)
- C) If the parties reject the entire list, the notification sent to the State Board shall include whether the parties prefer that the State Board appoint, on a rotating basis, a hearing officer from the master list who was not on the parties' rejected list, or whether the parties

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intend to select a hearing officer through an alternative method in accordance with Section 24-12(d)(4) of the School Code.

- 3) A hearing officer shall be selected in accordance with Section 24-12(d)(3) of the School Code and this subsection (a)(3) if the tenured teacher has requested a hearing before a Board-selected hearing officer. Within three business days after receipt of the master list from the State Board, the Board shall select one name from the master list established pursuant to subsection (a)(1) of this Section and, in writing, notify the tenured teacher and the State Board of its selection. Notification to the State Board shall be addressed to the General Counsel, Illinois State Board of Education, 100 W. Randolph Street, Chicago, Illinois 60601.
 - 4) In lieu of selecting a hearing officer pursuant to subsection (a)(2) or (a)(3) of this Section, the parties may mutually select either an impartial hearing officer who is on the State Board's master list but was not on the list provided to the parties under subsection (a)(2) of this Section or *an impartial hearing officer who is not on the State Board's master list either directly or by using procedures for the appointment of an arbitrator established by the Federal Mediation and Conciliation Service or the American Arbitration Association. The parties shall notify the State Board of their intent to select a hearing officer using an alternative process within 3 business days after the receipt of the list of prospective hearing officers provided by the State Board, or the notice of appointment of hearing officer by the State Board, or receipt of notice from the State Board that it cannot provide a list of qualified, impartial hearing officers, whichever occurs later (Section 24-12(d)(4) of the School Code).*
- b) List of Hearing Officers and Selection of Hearing Officers – School Districts Organized under Article 34 of the School Code
- 1) A school district organized under Article 34 of the School Code shall maintain a separate list of nine hearing officers to conduct hearings on charges and specifications. The school district shall develop the list *in good faith consultation with the exclusive representative of the Board's teachers and professional associations that represent the Board's principals* (Section 34-85(a)(3) of the School Code). Each hearing officer shall maintain the following qualifications:

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- A) He or she must be accredited by a national arbitration organization and have had a minimum of 5 years of experience as an arbitrator in cases involving labor and employment relations matters between employers and employees or their exclusive bargaining representatives (Section 34-85(a)(3) of the School Code).
- B) He or she must be disinterested and impartial.
- C) He or she must have no financial or personal interest in the result of the hearing.
- D) Beginning on September 1, 2012, he or she must have successfully completed the training provided or approved by the State Board specific to issues generally involved in evaluative and non-evaluative dismissals (Section 34-85(a)(3) of the School Code).
- E) He or she must be available to commence the hearing within 75 calendar days and conclude the hearing within 120 calendar days after being selected as hearing officer (Section 34-85(a)(5) of the School Code).
- 2) A hearing officer shall be selected as set forth in Section 34-85(a)(3) of the School Code and this subsection (b)(2) if the tenured teacher has chosen to use a mutually selected hearing officer. The general superintendent and the teacher or principal or their legal representatives, within 5 business days after receiving the notice of request for a hearing, shall alternately strike one name from the list of nine qualified hearing officers until only one name remains. Unless waived by the teacher, the teacher or principal shall have the right to proceed first with the striking. (Section 34-85(a)(3) of the School Code)
- 3) A hearing officer shall be selected as set forth in Section 34-85(a)(4) of the School Code and this subsection (b)(3) if the tenured teacher does not participate in the selection process. The general superintendent either shall select the hearing officer from the list of nine qualified hearing officers or select another qualified hearing officer from the master list maintained by the State Board. (Section 34-85(a)(3) of the School Code) (See subsection (a)(1) of this Section.)

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- c)b) ~~For purposes of the master list maintained by the~~The State Board of Education shall provide the local board of education and the teacher with a list of five prospective impartial hearing officers. The State Board of Education shall select the first five hearing officers from the master list who do not reside in the school district, if required by Section 24-12 of the School Code. The State Board of Education pursuant to subsection (a)(1) of this Section, shall place the names of the four hearing officers not selected from among the five provided to a school district under subsection (a)(2) of this Section shall be placed at the bottom of the master list and the State Board shall rotate the names on the list accordingly.
- d)e) ~~As soon as possible~~Upon notice of his or her appointment as a hearing officer, the prospective hearing officer shall disclose to the parties in writing any circumstances he or she believes might disqualify him or her as an impartial hearing officer.
- 1) ~~Upon receipt of such information the State Board of Education shall immediately disclose it to the parties.~~2) The parties may waive the presumptive disqualification.
- 2)3) If either party declines to waive the presumptive disqualification, the party shall notify the State Board of this fact, and the State Board ~~of Education~~ within five days after receiving this disclosure, shall declare a vacancy.
- e)d) If any hearing officer shall resign, die, withdraw, refuse or be unable or disqualified to perform the duties of his or her position, the State Board ~~of Education~~ shall, on proof satisfactory to it, declare the position vacant.
- 1) Vacancies shall be filled in the same manner as that governing the making of the original appointment; that is:-
- A) For school districts not organized under Article 34 of the School Code, either by mutual selection by the tenured teacher and the Board, or by the Board; and
- B) For a school district organized under Article 34 of the School Code, either by mutual selection by the tenured teacher and the general superintendent, or by the general superintendent.

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2) If a vacancy occurs at any point prior to the opening of the hearing, a new hearing officer shall be appointed and shall adopt all pre-hearing orders entered by the previous hearing officer.

32) ~~If Should~~ a vacancy ~~occurs after the opening~~~~occur during the course~~ of a hearing, the entire matter shall be reheard by a new hearing officer unless, after considering arguments presented by each party, the hearing officer adopts the previous hearing officer's findings and agrees to move forward.

f)e) Fees and Costs

1) If the notice of dismissal is sent to the tenured teacher before July 1, 2012, ~~the~~The State Board of Education shall pay the ~~hearing officer~~Hearing Officer a per diem of \$300 for the days on which the hearing is held and \$37.50 per hour for any other services, or ~~such~~ greater amount as the State Board of Education may determine based on available resources. Billing procedures shall be arranged on an individual basis between the State Board and the hearing officerHearing Officer.

2) If the notice of dismissal is sent to the tenured teacher on or after July 1, 2012, payment shall be made in accordance with Section 24-12(d)(5) or 34-85(a)(4) of the School Code.

g)f) All communication from the parties to the hearing officer other than at oral hearing shall be in writing and copies shall be sent at the same time to the opposing party and the State Board ~~of Education~~. However, ~~when~~where circumstances necessitate, the hearing officer may make other appropriate arrangements, including but not limited to conference telephone calls. The hearing officer shall promptly report to the other party the complete substance of any unilateral communications.

h)g) All hearing officers shall abide by the professional standards set forth in "The Code of Professional Responsibility for Arbitrators of Labor Management Disputes" ~~(2007)~~(2003), published by the National Academy of Arbitrators, 1 ~~North~~No. Main Street, Suite 412, Cortland, New York 13045; no later amendments to or editions of these standards are incorporated. A violation of the professional standards identified in this subsection (h) shall be grounds for removal of the hearing officer from the master list maintained by the State Board.

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- i) The hearing officer shall interpret and apply the provisions of this Part insofar as they relate to his or her powers and duties and shall follow any court interpretation of this Part.

(Source: Amended at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.55 Pre-Hearing Procedures

- a) The parties and the hearing officer may agree to a location for the hearing. If there is a dispute as to the location of the hearing, the hearing officer shall fix the place of the hearing at a location within the district's boundaries.
- b) The tenured teacher shall answer the bill of particulars or charges and specifications, aver any affirmative defenses, and update the answer and defenses, in accordance with the schedule set forth by the hearing officer pursuant to subsection (c) of this Section. (See Sections 24-12(d)(6) and 34-85(a)(5) of the School Code.)
- c) Pre-Hearing Conference
No later than 10 days after being selected as the hearing officer, the hearing officer shall convene a pre-hearing conference with the parties for the purpose of, among other things, setting a schedule. The schedule shall be contained in the hearing officer's order that reflects the action taken at the conference and include:
- 1) The deadline for the tenured teacher's answer and any affirmative defenses to the bill of particulars or charges and specifications submitted pursuant to subsection (b) of this Section and for the updating of that information after pre-hearing discovery;
 - 2) A schedule for discovery, including any written interrogatories and requests for production of documents;
 - 3) The deadline for initial disclosures and updated disclosures to be sent to the other party, which deadline may be no later than 10 days prior to the commencement of the hearing (see Sections 24-12(d)(6) and 34-85(a)(5)); and
 - 4) The dates, times and locations of any subsequent pre-hearing conferences, as needed.

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- d) Initial Disclosures and Updated Disclosures
Subject to the deadline established by the hearing officer in his or her order issued pursuant to subsection (c) of this Section, and in accordance with Sections 24-12(d)(6) and 34-85(a)(5) of the School Code, each party shall disclose in writing to the other, with copies to the hearing officer, the following information:
- 1) *The names and addresses of persons who may be called as witnesses at the hearing;*
 - 2) *A summary of the facts or opinions each witness will testify to; and*
 - 3) *All other documents and materials, including information maintained electronically, relevant to its own as well as the other party's case (the hearing officer may exclude witnesses and exhibits not identified and shared, except those offered in rebuttal for which the party could not reasonably have anticipated prior to the hearing). (Sections 24-12(d)(6) and 34-85(a)(5) of the School Code)*
- e)b) Discovery
- ~~1) Either party may request in writing from the other, with copies to the State Board of Education and the hearing officer, a list of persons (and their addresses) who may be called as expert witnesses at the hearing, the omission of any such name to result in a preclusion of the testimony of such witness in the absence of a showing of good cause and the express permission of the hearing officer. 2) Either party may request in writing from the other, with copies to the State Board of Education and the hearing officer, a list of persons (and their addresses) who may have knowledge of facts related to the charges and/or the defenses thereto. This is not to be construed as a list of witnesses to be used at the hearing, but no person whose name is not so disclosed may testify except upon good cause shown and by the express permission of the hearing officer. 3) The hearing officer shall allow for interrogatories and requests for production of documents, and may allow for other discovery, subject to reasonable limitations set forth by the hearing officer, in the order reflecting the pre-hearing conference or any future order. The hearing officer shall not allow for discovery depositions (see Sections 24-12(d)(6) and 34-85(a)(5) of the School Code). Further discovery, limited to written interrogatories, bills of particulars, requests to produce, and lists of witnesses, may be allowed.~~
- 1)A) Application for ~~such~~ discovery shall be made by written motion to the

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hearing officer, with copies to the ~~State Board of Education and the~~ other party.

- ~~2)B)~~ The motion shall state the specific nature of the discovery and the circumstances necessitating the discovery. If interrogatories are sought, a copy of ~~the interrogatories~~ these shall be attached to the motion.
- ~~3)C)~~ The hearing officer shall rule on the motion within five days after receipt of the motion, sending copies of the decision to both parties ~~and to the State Board of Education~~. The ruling shall set a date by which discovery shall be completed. In the case of interrogatories, receipt of the hearing officer's ruling shall be deemed service of the interrogatories ~~when~~ where the provisions of subsection ~~(e)(2)(b)(3)(B)~~ of this Section have been complied with.
- ~~4)D)~~ In ruling on the motion, the hearing officer shall not permit discovery ~~that~~ which will unnecessarily delay the proceedings or harass a party, ~~and~~ but shall allow only that discovery ~~that~~ which will further the resolution of the dispute, avoid surprise to a party, or aid in doing substantial justice.
- ~~5)4)~~ Each party providing answers to discovery requests shall sign his or her responses under oath, and each attorney making objections shall sign his or her objections under oath.
- ~~f)e)~~ Other pretrial motions may be filed and resolved prior to the hearing at the discretion of the hearing officer, provided that no motion shall be resolved prior to the hearing that would result in a default judgment against the tenured teacher.
- ~~g)~~ Any party who proceeds with the hearing after knowledge that any provision of this Subpart B has not been complied with prior to the hearing and who fails to state his or her objection to the noncompliance in writing to the hearing officer shall be deemed to have waived his or her right to object.

(Source: Amended at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.60 The Hearing

- a) The hearing shall be closed to the public unless one of the parties requests that it be open and the hearing officer so orders. The hearing officer shall exclude

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witnesses during the testimony of other witnesses upon the motion of either party, except that, at any time, one representative of each party in addition to counsel (or other authorized representative) shall be allowed to be present, even if that representative is also a witness. When a witness is a minor, the hearing officer shall allow the parent or representative of the minor to be present when the minor is testifying. In open hearings, individuals who are not witnesses are not affected by exclusion under this subsection (a).

- b) The parties may be present and represented by counsel and by other authorized representatives.
- c) The order of proceeding shall be as follows:
 - 1) The hearing shall be opened by the recording of the place, time, and date of the hearing, the presence of the hearing officer and the parties and counsel, if any, and any stipulations as to facts. Pre-hearing motions submitted in accordance with Section 51.55 of this Part and not previously disposed of shall be heard at this time.
 - 2) Upon the opening of the hearing, the hearing officer shall allow the parties to make opening statements.
 - 3) The ~~Board~~ shall proceed first to present its evidence, and it shall have the burden of proof. Parties may agree to take witnesses out of order. The hearing officer may, at his or her discretion, vary the normal procedure under which the Board presents its case first, provided that the parties agree to take witnesses out of order, but in any event shall afford full and equal opportunity to all parties for presentation of relevant proof.
 - 4) Either party may offer evidence and witnesses, cross-examine the witnesses, ~~offer evidence~~, and present a defense or rebuttal.
 - 5) All testimony shall be taken under oath or affirmation administered by the hearing officer.
 - 6) The hearing officer may issue subpoenas requiring the attendance of witnesses and subpoenas duces tecum; and, at the request of either of the parties, shall issue the requested ~~such~~ subpoenas but may limit the number of witnesses to be subpoenaed on behalf of either party to not more than

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seventeen.

- 7) The hearing officer shall cause a record of the proceedings to be kept and shall employ a competent reporter to take stenographic or stenotype notes of all the testimony. The party or parties who are responsible for paying the fees and costs of the hearing officer (Sections 24-12(d)(6) and 34-85(a)(5) of the School Code)~~The State Board of Education~~ shall pay for the attendance and services of the court reporter or other competent reporter who can provide a verbatim transcript of the proceedings as well as for the transcript, if any, ordered by the hearing officer for the purpose of making his or her decision. (See Section 51.40(f) of this Part.)
- A) The cost of any transcript ordered by the hearing officer shall be paid by the party or parties responsible for paying the fees and cost of the hearing officer.
- B) Either party desiring a transcript of the hearing shall pay for the cost of the transcript (see Sections 24-12(d)(6) and 34-85(a)(5) of the School Code).
- 8) Exhibits, when offered by either party, may be received in evidence by the hearing officer. The names and addresses of all witnesses and exhibits, in order received, shall be made a part of the record. The hearing officer shall make rulings on the admissibility of exhibits.
- 9) The hearing shall commence within 75 days and conclude within 120 days after the appointment of the hearing officer, barring modification of these timelines by the hearing officer upon a showing of, for good cause or mutual agreement of the parties. "Good cause" for the purpose of this subsection (c)(9) shall mean the illness or otherwise unavoidable emergency of the teacher, district representative, their legal representatives, the hearing officer, or an essential witness as indicated in each party's pre-hearing submission (Sections 24-12(d)(6) and 34-85(a)(5) of the School Code)~~shown, may continue the hearing upon the request of the teacher or the board or upon his or her own initiative.~~
- 10) The hearing may proceed in the absence of either party, who, after due notice, fails to be present or fails to obtain a continuance.

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- 11) ~~The hearing officer shall consider and give weight to all of the teacher's evaluations written pursuant to article 24A of the School Code.~~
- 11)12) Each party shall be provided no more than three business days to present its case, unless the hearing officer determines, in accordance with the provisions of Section 24-12(d)(6) or 34-85(a)(5) of the School Code, that more time is needed for either the tenured teacher or the Board to present adequate evidence and testimony, including due to the other party's cross-examination of the party's witnesses. For the purposes of this subsection (c)(11), a "business day" shall consist of 7.5 hours, such that three business days equates to 22.5 hours, exclusive of time taken for lunch and other breaks. The hearing officer may, at his or her discretion, vary the normal procedure under which the board presents its case first, but in any event shall afford full and equal opportunity to all parties for presentation of relevant proof.
- 12)13) At the conclusion of the hearing, each party may make **an oral** closing statement ~~(orally and/or written at the discretion of the hearing officer)~~ incorporating arguments of fact and law.
- 13) When the hearing officer determines that neither party has further proof to offer or witnesses to be heard, he or she shall declare the hearing concluded and so note in the record.
- 14) At the close of the hearing, the hearing officer shall direct the parties to submit post-hearing briefs no later than 21 days after receipt of the transcript, unless extended by the hearing officer for good cause or by mutual agreement of the parties (Sections 24-12(d)(6) and 34-85(a)(5) of the School Code). Post-hearing briefs may not exceed 50 pages in length, unless the hearing officer determines in a written order that the circumstances of a particular matter (e.g., length of the hearing) warrant a limitation shorter or longer than 50 pages. Either party may waive submission of a brief. If written briefs are to be submitted subsequently, the hearing officer shall so note in the record.
- 15)14) The record of the proceedings ~~hearing~~ shall not be considered closed until all evidence has been submitted and any ~~briefs, if allowed by the hearing officer,~~ have been timely received by the hearing officer. The hearing officer shall notify the parties, in writing, of the closing date of the

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~~record hearing. A copy of the notice shall be forwarded to the State Board of Education.~~

- d) Evidentiary rules to be followed during the hearing shall be as follows:
- 1) The parties may offer ~~anysuch~~ evidence as they desire, and each party shall produce ~~anysueh~~ additional evidence as the hearing officer may deem necessary to an understanding and determination of the dispute. ~~The hearing officer may limit the number of witnesses on behalf of either party to no more than ten. (Sections 24-12 and 34-85 of the School Code)~~
 - 2) The hearing officer shall be the judge of the relevancy and materiality of the evidence offered and strict conformity to legal rules of evidence shall not be necessary.
 - 3) Objections to evidentiary offers may be made and shall be noted in the record. The hearing officer shall have the power to make rulings, including the power to exclude evidence. "Offers of Proof" shall be permitted.
 - 4) Any witness designated as hostile by the hearing officer may be examined as if under cross-examination.
 - 5) If the hearing officer grants a party's request to submit a document after the evidentiary portion of the hearing is closed, the party shall file that document with the hearing officer ~~and with the other party, with copies to the State Board of Education and the other party,~~ within the time designated by the hearing officer.
- e) ~~When the hearing officer determines that neither party has further proof to offer or witnesses to be heard, he or she shall declare the hearing concluded and a minute thereof shall be so noted in the record. If written briefs are to be submitted subsequently, the hearing officer shall so note.~~

(Source: Amended at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.70 The Decision: [School Districts Not Organized under Article 34 of the School Code](#)

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When a hearing is held under Section 24-12(d) of the School Code, the hearing officer must, within 30 days after the hearing is concluded or the record is closed, whichever is later, render a final decision as to whether the tenured teacher shall be dismissed pursuant to Article 24A of the School Code (unless the school district pursues the dismissal under Subpart C of this Part) or findings of fact and recommendation as to whether the teacher must be dismissed for conduct (Sections 24-12(d)(7) of the School Code). The hearing officer shall provide a copy of the decision or findings of fact and recommendation issued pursuant to this Section to the State Board of Education by certified mail addressed to the General Counsel, Illinois State Board of Education, 100 W. Randolph Street, Chicago, Illinois 60601. ~~the decision must be rendered within 30 days after the conclusion of the hearing or closure of the record, whichever occurs later. When a hearing is held under Section 34-85 of the School Code, the hearing officer's findings of fact and recommendation must be rendered within 45 days after the conclusion of the hearing. For purposes of the remainder of this Section, "decision" means either a decision under Section 24-12 of the School Code or the findings of fact and recommendation under Section 34-85 of the School Code.~~

- a) Dismissal Due to Performance Pursuant to Article 24A of the School Code~~The hearing officer shall make a decision in writing as to whether or not the teacher shall be dismissed. The hearing officer's decision shall include findings of fact.~~
- 1) In a dismissal hearing regarding performance pursuant to Article 24A of the School Code, the hearing officer shall render a decision in writing as to whether the tenured teacher shall be dismissed. The hearing officer shall consider and give weight to all of the teacher's evaluations, subject to their introduction at the hearing, that are relevant to the issues in the hearing (Section 24-12(d)(6) of the School Code).
 - 2) A copy of the hearing officer's decision shall be given by certified mail to both the tenured teacher and the Board or their legal representatives of record.
 - 3) The decision of the hearing officer is final unless reviewed under the Administrative Review Law [735 ILCS 5/Art. III], as provided in Section 24-16 of the School Code [105 ILCS 5/24-16].
 - A) In the case of an administrative review, the Board shall prepare and file the record of proceedings and the parties shall share the cost equally of preparing and filing the record (see Section 24-12(d)(9) of the School Code).

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- B) The record of the proceedings shall contain each of the items listed in this subsection (a)(2)(B).
- i) All pleadings and exhibits (including all notices and responses), motions and rulings.
 - ii) All evidence received.
 - iii) A statement of matters officially noticed.
 - iv) Any offers of proof, objections, and rulings on the proof and objections.
 - v) Any proposed findings and exceptions.
 - vi) A transcript of the hearing.
 - vii) The decision of the hearing officer.
 - viii) Any other material required under Section 10-35 of the Illinois Administrative Procedure Act [5 ILCS 100/10-35].
- b) Dismissal Due to Conduct Pursuant to Section 24-12(d) of the School Code
In a dismissal hearing regarding conduct pursuant to Section 24-12(d) of the School Code, the hearing officer shall issue *findings of fact and recommendation as to whether the conduct occurred, the conduct was remediable, and the proposed dismissal should be sustained* (Section 24-12(d)(8) of the School Code).
- 1) A copy of the hearing officer's findings of fact and recommendation shall be given by certified mail to both the tenured teacher and the Board, or their legal representatives of record.
 - 2) The Board, within 45 days after receipt of the hearing officer's findings of fact and recommendation rendered pursuant to Section 24-12(d) of the School Code, shall issue a written order as to whether the teacher must be retained or dismissed for cause. (Section 24-12(d)(8) of the School Code)
A copy of the Board's written order shall be given by certified mail to the

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tenured teacher and his or her legal representatives of record and to the State Board at the address set forth in this Section.

A) The order shall incorporate the findings of fact, except that the school board may modify or supplement the findings of fact if, in its opinion, the findings of fact are against the manifest weight of the evidence. (Section 24-12(d)(8) of the School Code)

B) *If the school board dismisses the teacher notwithstanding the hearing officer's findings of fact and recommendation, the school board shall make a conclusion in its written order, giving its reasons therefor, and such conclusion and reasons must be included in its written order. (Section 24-12(d)(8) of the School Code)*

3) The decision of the Board, as set forth in its written order, is final unless reviewed under the Administrative Review Law, as provided in Section 24-16 of the School Code [105 ILCS 5/24-16].

A) In the case of an administrative review, the Board shall prepare and file the record of proceedings and the parties shall share the cost equally of preparing and filing the record (see Section 24-12(d)(10) of the School Code).

B) The record of the proceedings shall contain each of the items listed in this subsection (b)(3)(B).

i) All pleadings and exhibits (including all notices and responses), motions and rulings.

ii) All evidence received.

iii) A statement of matters officially noticed.

iv) Any offers of proof, objections, and rulings on the proof and objections.

v) Any proposed findings and exceptions.

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- vi) A transcript of the hearing.
 - vii) The findings of fact and recommendation of the hearing officer.
 - viii) The decision of the Board, as set forth in its written order.
 - ix) Any other material required under Section 10-35 of the Illinois Administrative Procedure Act.
- c)b) Pursuant to Section 24-12(d)(7) of the School Code, if ~~If~~ the hearing officer fails, without good cause specifically provided in writing to the parties and the State Board, to render a decision issued pursuant to subsection (a) of this Section or findings of fact and recommendation issued pursuant to subsection (b) of this Section within 30 days after the later of the close of the hearing or the record, the parties may mutually agree to select a hearing officer pursuant to the alternative selection procedures provided under Section 24-12(d)(4) of the School Code to rehear the charges or review the record and render a decision.
- 1) The hearing officer who failed to timely render a decision or findings of fact and recommendation ~~without good cause shall have the required timeframe~~, his or her name ~~shall be~~ struck from the master list of hearing officers maintained by the State Board of Education for a period of ~~not more than 24~~ at least six months.
 - 2) The parties and the State Board may take other actions as they deem appropriate regarding reducing fees paid to the hearing officer.
 - 3) If any hearing officer again fails to provide in a timely manner a decision or findings of fact and recommendation ~~without good cause~~, the State Board shall remove him or her permanently from the master list and prohibit any party from selecting this hearing officer through the alternative selection process in Section 24-12(d)(4) of the School Code.
- e) A copy of the hearing officer's decision shall be given to the State Board of Education to be forwarded by certified mail to both the teacher and the Board, or their legal representatives of record. ~~If Section 34-85 of the School Code applies, the decision of the Board shall also be given to the State Board of Education to be forwarded by certified mail to the teacher.~~

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- d) ~~The decision of the hearing officer, if rendered pursuant to Section 24-12 of the School Code, is final unless reviewed under the Administrative Review Law [735 ILCS 5/Art. III], as provided in Section 24-16 of the School Code [105 ILCS 5/24-16]. The decision of the hearing officer, if rendered pursuant to Section 34-85 of the School Code, is only a finding of fact and recommendation to the Board. The Board's decision to dismiss a tenured teacher from its employ is final unless reviewed under the Administrative Review Law, as provided in Section 34-85b of the School Code [105 ILCS 5/34-85b].~~
- 1) ~~If neither party appeals, then either party desiring a transcript of the hearing shall pay for the cost thereof.~~
 - 2) ~~The costs of preparing and filing the record of proceedings in the case of a review shall be paid by the Board.~~
 - 3) ~~The record of the hearing shall include:~~
 - A) ~~all pleadings and exhibits,~~
 - B) ~~a statement of matters officially noticed,~~
 - C) ~~a transcript of the hearing, and~~
 - D) ~~the decision of the hearing officer (and the decision of the Board, if Section 34-85 of the School Code applies).~~
- d)e) Pursuant to ~~Section~~Sections 24-12(d)(7) and 34-85 of the School Code, *the Board shall not lose jurisdiction to discharge a teacher if the hearing officer fails to render a decision within the applicable time specified in this Section.*

(Source: Amended at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.75 The Decision: School Districts Organized under Article 34 of the School Code

When a hearing is held under Section 34-85 of the School Code regarding performance pursuant to Article 24A of the School Code or conduct, the hearing officer shall, within 30 calendar days after the conclusion of the hearing, report to the general superintendent findings of fact and a

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recommendation as to whether the teacher or principal shall be dismissed (Section 34-85(a)(6) of the School Code). The hearing officer shall provide a copy of the findings of fact and recommendation issued pursuant to this Section to the State Board of Education by certified mail addressed to the General Counsel, Illinois State Board of Education, 100 W. Randolph Street, Chicago, Illinois 60601.

- a) In a dismissal hearing regarding performance pursuant to Article 24A of the School Code, the hearing officer shall consider and give weight to all of the teacher's evaluations, subject to their introduction at the hearing, that are relevant to the issues in the hearing. (Section 34-85(a)(5) of the School Code)
- b) The hearing officer shall report to the general superintendent findings of fact and a recommendation as to whether the teacher or principal shall be dismissed and shall give a copy of the report to both the teacher or principal and the general superintendent (Section 34-85(a)(6) of the School Code). A copy of the hearing officer's findings of fact and recommendation shall be given by certified mail to the tenured teacher or his or her legal representatives of record.
- c) If the hearing officer is appointed from the master list developed by the State Board and he or she fails, without good cause, to render findings of fact and recommendation within the required timeframe, then his or her name shall be struck from the master list of hearing officers for a period of at least 24 months. Other action may be taken as provided in Section 51.70(c) of this Part.
- d) The decision of the hearing officer regarding dismissal due to either performance or conduct rendered pursuant to Section 34-85 of the School Code is the findings of fact and recommendation to the Board.
 - 1) The Board shall make a decision as to whether the tenured teacher shall be dismissed within 45 days after receiving the hearing officer's report of findings and recommendation.
 - 2) A copy of the Board's decision shall be given by certified mail to the tenured teacher and his or her legal representatives of record, and to the State Board at the address set forth in this Section.
 - 3) The Board's decision to dismiss a tenured teacher from its employ is final unless reviewed under the Administrative Review Law, as provided in Section 34-85b of the School Code [105 ILCS 5/34-85b], with the review

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required to be initiated in the Illinois Appellate Court for the First District (see Section 34-85(a)(8) of the School Code).

- A) In the case of an administrative review, the Board shall prepare and file the record of proceedings and the parties shall share the costs of preparing and filing the record equally.
- B) The record of the hearing shall contain each of the items enumerated in Section 51.70(b)(3)(B) of this Part.
- 4) Pursuant to Section 34-85(a)(7) of the School Code, the failure of the Board to strictly adhere to the timeline set forth in subsection (d)(1) of this Section does not *render it without jurisdiction to dismiss the tenured teacher.*

(Source: Added at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.80 Waiver, Interpretation and Application of this Part (Repealed)

- a) Any party who proceeds with the hearing after knowledge that any provision of this Part prior to hearing has not been complied with and who fails to state his or her objection thereto in writing either to the State Board of Education or to the hearing officer shall be deemed to have waived his or her right to object.
- b) The hearing officer shall interpret and apply the provisions of this Part insofar as they relate to his or her powers and duties and shall follow any court interpretation of this Part.
- e) A violation of the professional standards identified in Section 51.40(g) of this Part shall be grounds for removal of the hearing officer from the master list maintained by the State Board of Education.
- d) All other rules shall be interpreted and applied by the State Board of Education

(Source: Repealed at 36 Ill. Reg. 12829, effective July 25, 2012)

SUBPART C: OPTIONAL ALTERNATIVE EVALUATIVE DISMISSAL
UNDER SECTION 24-16.5 OF THE SCHOOL CODE

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Section 51.200 Purpose and Applicability of this Subpart C

- a) This Subpart C sets forth the requirements for a school district, including a school district organized under Article 34 of the School Code, to implement an optional alternative evaluative dismissal process authorized under Section 24-16.5 of the School Code [105 ILCS 5/24-16.5].
- b) A school board may dismiss a tenured teacher using an optional alternative evaluative process if each of the conditions set forth in this subsection (b) are met. (See Section 24-16.5(b) of the School Code.)
- 1) The tenured teacher is being dismissed due to his or her failure to complete a remediation plan, developed pursuant to Section 24A-5 of the School Code [105 ILCS 5/24A-5], with a rating of "proficient" or better.
 - 2) The "unsatisfactory" rating that precipitated the remediation plan resulted from a performance evaluation process that:
 - A) addressed teacher practice components and included data and indicators of student growth; and
 - B) was conducted on or after the date on which the school district was required to implement a performance evaluation plan incorporating data and indicators of student growth or an earlier date, as authorized under Section 24A-2.5 of the School Code [105 ILCS 5/24A-2.5].
 - 3) The school district has complied with the requirements of Section 24-16.5(c) of the School Code and this Subpart C regarding the selection and use of a second evaluator during the pre-remediation and remediation processes.
- c) Nothing in this Subpart C is intended to change the existing practices or precedents under Section 24-12 or 34-85 of the School Code, nor shall this Subpart C be interpreted as implying standards and procedures that should or must be used as part of a remediation that precedes a dismissal sought under Section 24-12 or 34-85 of the School Code (Section 24-16.5(b) of the School Code).

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(Source: Added at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.210 Establishment of the List of Second Evaluators; Qualifications

- a) Before a school district's first remediation relating to a dismissal under Section 24-16.5 of the School Code and this Part, the school district shall establish a list of at least two evaluators who meet the qualifications set forth in subsection (b) of this Section to serve as second evaluators.
- 1) The school district shall provide written notification to the teacher representatives identified pursuant to subsection (e) of this Section of the names and qualifications of the individuals it has chosen to include as second evaluators.
 - 2) The teacher representatives may submit in writing to the school district the names and qualifications of additional individuals to be included on the list of second evaluators, provided that they shall not *submit more teacher evaluators for inclusion on the list than the number of evaluators submitted by the school district* (Section 24-16.5(c)(1) of the School Code). Each individual whose name is submitted by the teacher representatives to serve as a second evaluator shall meet one of the qualifications specified in Section 24-16.5(c) of the School Code; that is, either:
 - A) holds certification from the *National Board of Professional Teaching Standards*, with no *"unsatisfactory"* or *"needs improvement"* performance evaluation ratings in his or her two most recent performance evaluations; or
 - B) has obtained a performance evaluation rating of *"excellent"* in two of the three most recent performance evaluations, with no *"needs improvement"* or *"unsatisfactory"* performance evaluation ratings in his or her last three ratings.
 - 3) If the teacher representatives fail to submit in writing any names of additional second evaluators within 21 days after receiving the written notification specified in subsection (a)(1) of this Section, then the school district may proceed with a remediation using a list of second evaluators that includes only those names identified by the school district.

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- b) Each second evaluator shall be qualified to serve as an evaluator under Section 24A-3 of the School Code [105 ILCS 5/24A-3].
- c) The list of second evaluators may be revised either by the school district or teacher representatives at any time, with the party initiating the revision providing at least three days notice to the other party of its intent to revise the list. The process to revise the list shall be made in accordance with this Section and Section 24-16.5(c)(2) of the School Code.
- d) Establishment of the Process for Selecting a Second Evaluator
- 1) Before a school district's first remediation relating to a dismissal under Section 24-16.5 of the School Code and this Subpart, the school district also shall, in good faith cooperation with its teacher representatives, develop a process to be used to select a second evaluator from the list established pursuant to subsection (a) (see Section 24-16.5(c)(2) of the School Code).
 - 2) The process may be amended at any time in good faith cooperation with the teacher representatives.
 - 3) If the teacher representatives are given an opportunity to cooperate with the school district with respect to the establishment or amendment of the process and elect not to do so, then the school district may, at its discretion, establish or amend the process for selection.
 - 4) Before the hearing officer and as part of any judicial review of a dismissal under Section 24-16.5 of the School Code, a tenured teacher may not challenge a remediation or dismissal on the grounds that the process used by the school district to select a second evaluator was not established in good faith cooperation with its teacher representatives.
- e) For the purposes of this Section, "teacher representatives" shall mean:
- 1) the exclusive collective bargaining agent, or its designees, if the teachers are represented by a collective bargaining unit; or

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- 2) a group of teachers, whose number shall not exceed the number of school district representatives participating in the selection process, who have been chosen by their peers to serve in this capacity.

(Source: Added at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.220 Selection of Second Evaluators

- a) When a school district determines that it will use the optional alternative evaluative dismissal process for a particular tenured teacher, it shall choose a second evaluator using the process outlined in Section 51.210(d) of this Part from the list established pursuant to Section 51.210(a) of this Part, provided that:
 - 1) the evaluator selected shall not be the same individual who made the determination to assign the affected tenured teacher a performance evaluation rating of "unsatisfactory" (see Section 24-16.5(c)(3) of the School Code); and
 - 2) if the evaluator selected is an administrator, then the evaluator does not directly report to the individual who assigned the "unsatisfactory" rating to the affected tenured teacher (see Section 24-16.5(c)(3) of the School Code).
- b) The school district's authority to select a second evaluator from the list of second evaluators must not be delegated or limited through any agreement with the teacher representatives (Section 24-16.5(c)(3) of the School Code).
- c) Nothing in this Subpart C shall prohibit a school district and its teacher representatives from agreeing to use an individual as a second evaluator who is a member of the exclusive bargaining unit, provided that the individual otherwise qualifies under **this** Section and Section 24A-3 of the School Code.

(Source: Added at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.230 Use of a Second Evaluator in Specific Remediations

In accordance with the requirements of Section 24-16.5(c)(4) of the School Code, the second evaluator chosen to participate in an optional alternative evaluative dismissal process of a

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particular tenured teacher shall conduct an evaluation of that tenured teacher's performance by one of the methods specified in this Section.

- a) The second evaluator may conduct a mid-point and final evaluation of the tenured teacher subject to dismissal during the period of the tenured teacher's remediation and award a performance evaluation rating of "excellent", "proficient", "needs improvement" or "unsatisfactory".
- 1) The mid-point evaluation shall assess the tenured teacher's performance during the time period since the completion of the evaluation that resulted in the "unsatisfactory" rating, and the final evaluation shall assess the tenured teacher's performance during the time period since the completion of the mid-point evaluation. (See Section 24A-5(k) of the School Code.)
- 2) The final evaluation shall include an overall evaluation of the tenured teacher's performance during the remediation period.
- b) The second evaluator may conduct an independent assessment of whether the tenured teacher completed the remediation plan with a rating of "proficient" or "excellent". *The independent assessment may include, but is not limited to, personal or video-recorded observations of the teacher practice components of the remediation plan developed pursuant to Section 24A-5 of the School Code (Section 24-16.5(c)(4) of the School Code).*

(Source: Added at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.240 Hearing Procedures

A school district electing to use an optional alternative evaluative dismissal process shall comply with the procedures and requirements for a tenured teacher's request for a hearing, the selection of a hearing officer, pre-hearing and hearing procedures, and post-hearing briefs set forth in this Subpart C, and in either Section 24-12(d) or 34-85(a) of the School Code, as applicable, and Subpart B of this Part. (See Section 24-16.5(a) of the School Code.)

(Source: Added at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.250 Notice of Dismissal to the Affected Tenured Teacher

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- a) A school district that meets the conditions set forth in Section 51.200(b) of this Part that elects to use an optional alternative evaluative dismissal proceeding shall provide a written notice to the affected tenured teacher of this fact within 30 days after completion of the final remediation evaluation. (See Section 24-16.5(d) of the School Code.) The notice shall:
- 1) comply with the notice requirements set forth in Section 51.30(a) of this Part for a school district not organized under Article 34 of the School Code, including the right of the affected tenured teacher to request a hearing before a mutually selected hearing officer or a hearing officer selected by the Board; or
 - 2) comply with the notice requirements set forth in Section 51.30(b) of this Part for a school district organized under Article 34 of the School Code, including the right of the affected tenured teacher to request a hearing before a mutually selected hearing officer or to have a hearing officer selected by the general superintendent, should the tenured teacher not participate in the selection process.
- b) The notice shall indicate that the dismissal is sought under the optional alternative evaluative dismissal process authorized under Section 24-16.5 of the School Code and this Subpart C. (See Section 24-16.5(d) of the School Code.)
- c) The notice shall contain a copy of each performance evaluation that is the subject of the optional alternative evaluative dismissal process. (See Section 24-16.5(d) of the School Code.)

(Source: Added at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.260 Qualifications and Selection of Hearing Officers

- a) School districts not organized under Article 34 of the School Code shall select a hearing officer in accordance with the requirements of Section 51.40(a) of this Part.
- b) School districts organized under Article 34 of the School Code shall select a hearing officer in accordance with the requirements of Section 51.40(b) of this Part.

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- c) In addition to the applicable qualifications of Section 51.40 of this Part, each hearing officer shall have successfully completed the prequalification process required under Section 24A-3 of the School Code [105 ILCS 5/24A-3] before conducting a hearing under the optional alternative evaluative dismissal process.
- d) In accordance with Section 24-16.5(d)(1) of the School Code, the State Board may waive the prequalification process requirements in order to provide an adequate pool of hearing officers for consideration.

(Source: Added at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.270 Scope of the Hearing

- a) In accordance with Section 24-16.5(d)(2)(A) of the School Code, the scope of the hearing held for an optional alternative evaluative dismissal process shall be limited to the school district's demonstration of each of the components listed in this subsection (a).
- 1) The performance evaluation rating of "unsatisfactory" that preceded remediation applied the teacher practice components and student growth components and determined an overall evaluation rating of "unsatisfactory" in accordance with the standards and requirements of the school district's evaluation plan;
 - 2) The remediation plan for the affected tenured teacher complied with the requirements of Section 24A-5 of the School Code;
 - 3) The teacher failed to complete the remediation plan with a performance evaluation rating equal to or better than a "proficient" rating, based upon a final remediation evaluation that met the standards and requirements of the school district's evaluation plan, as applicable; and
 - 4) If the second evaluator selected pursuant to Section 51.220 of this Part conducts an independent assessment that results in a performance evaluation rating for the affected tenured teacher of "proficient" or "excellent", then the school district must demonstrate that the final remediation evaluation is a more valid assessment of the teacher's performance than the assessment made by the second evaluator. (Section 24-16.5(d)(2)(A) of the School Code)

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- b) Limitations of Action by the Tenured Teacher Subject to Dismissal
A tenured teacher subject to dismissal under an optional alternative evaluative dismissal process shall challenge only the substantive and procedural aspects of the process as set forth in this subsection (b). (See Section 24-16.5(d)(2)(B) of the School Code.)
- 1) The affected tenured teacher may challenge the performance evaluation rating of "unsatisfactory" that led to the remediation, the remediation plan developed pursuant to Section 24A-5 of the School Code, and the final evaluation conducted at the conclusion of the remediation period.
 - 2) To the extent the teacher challenges procedural aspects, including any in applicable collective bargaining agreement provisions, of a relevant performance evaluation rating or the remediation plan, the teacher must demonstrate how an alleged procedural defect materially affected the teacher's ability to demonstrate a level of performance necessary to avoid remediation or dismissal or successfully complete the remediation plan. Without any such material effect, a procedural defect shall not impact the assessment by the hearing officer, Board, or reviewing court of the validity of a performance evaluation or a remediation plan. (Section 24-16.5(d)(2)(B) of the School Code)
- c) The hearing officer shall only consider and give weight to performance evaluations relevant to the scope of the hearing as described in this Section (Section 24-16.5(d)(2)(C) of the School Code).
- d) In accordance with Section 24-16.5(d)(3) of the School Code, each party shall have two business days, as defined in Section 51.60(c)(11) of this Part, to present evidence and testimony unless:
- 1) a longer period is mutually agreed to by the parties; or
 - 2) the hearing officer deems the extension to be necessary to enable a party to present adequate evidence and testimony.

(Source: Added at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.280 Findings of Fact and Recommendation of the Hearing Officer

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- a) The hearing officer shall issue a report of findings of fact and recommendation to the Board, stating whether the affected tenured teacher shall be retained or dismissed and the reasons for the recommended action (see Section 24-16.5 of the School Code).
- 1) The report of findings of fact and recommendation shall be issued within 30 days after the hearing is concluded or the record of the hearing is closed, whichever is later. The record of the proceedings shall not be considered closed until all evidence has been submitted. The hearing officer shall notify the parties, in writing, of the closing date of the record.
 - 2) The report of findings of fact and recommendation shall not exceed 30 pages.
 - 3) A copy of the hearing officer's findings of fact and recommendation shall be given by certified mail to the tenured teacher and his or her legal representatives of record and to the State Board of Education addressed to the General Counsel, 100 W. Randolph Street, Chicago, Illinois 60601.
- b) The hearing officer shall provide a copy of the report of findings of fact and recommendation to the affected tenured teacher and the superintendent of the school district at the same time as the report is provided to the Board. The hearing officer shall provide a copy of the report to the State Board.
- c) Pursuant to Section 24-16.5(e) of the School Code, if the hearing officer fails, without good cause specifically provided in writing to the parties and the State Board, to render findings of fact and recommendation within 30 days after the later of the close of the hearing or the record, the parties may mutually agree to select a hearing officer pursuant to the alternative selection procedures provided under Section 24-12(d)(4) of the School Code to rehear the charges or to review the record and render a recommendation.
- 1) The hearing officer who failed to timely render findings of fact and recommendation shall have his or her name struck from the master list of hearing officers maintained by the State Board for a period of not more than 24 months.

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- 2) The parties and the State Board may take other actions as they deem appropriate regarding reducing fees paid to the hearing officer. If any hearing officer again fails to provide in a timely manner a decision or findings of fact and recommendation, the State Board shall remove him or her permanently from the master list and prohibit any party from selecting this hearing officer through the alternative selection process in Section 24-12(d)(4) of the School Code.

(Source: Added at 36 Ill. Reg. 12829, effective July 25, 2012)

Section 51.290 Decision of Board

- a) Within 45 days after receiving the hearing officer's findings of fact and recommendation, the Board shall render a written order as to whether the affected tenured teacher be retained or dismissed.
 - 1) A copy of the Board's decision shall be provided to the tenured teacher either by certified mail, return receipt requested, or personal delivery with receipt within five days after the date on which the Board rendered a decision to retain or dismiss the affected tenured teacher. A copy of the Board's decision also shall be given by certified mail to the State Board of Education addressed to the General Counsel, 100 W. Randolph Street, Chicago, Illinois 60601.
 - 2) Only Board members who have successfully completed a training program regarding performance evaluations administered or approved by the State Board shall consider the findings of fact and recommendation and make a determination as to whether the affected tenured teacher should be retained or dismissed. Approval of an entity to offer the training required under this subsection (a)(2) shall be as set forth in 23 Ill. Adm. Code 1.210 (Approval of Providers of Training for Board Members).
 - 3) If the Board determines that the affected tenured teacher should be dismissed, contrary to the hearing officer's findings of fact and recommendation, then the Board shall provide in its written order its conclusion and the reasons for making that determination.

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- 4) *The failure of the Board to strictly adhere to the timeline set forth in this subsection (a) does not render it without jurisdiction to dismiss the teacher (Section 24-16.5(f) of the School Code).*
- b) The decision of the Board is final unless reviewed under the Administrative Review Law, as provided in Section 24-16.5(g) of the School Code.
- 1) The affected tenured teacher shall file the appeal within 35 days from the date that he or she received the Board's decision pursuant to subsection (a)(1) of this Section.
- A) *For a teacher dismissed by a school district having fewer than 500,000 inhabitants, the judicial review must be taken directly to the appellate court of the judicial district in which the school district's Board maintains its primary administrative offices (Section 24-16.5(g)(2) of the School Code).*
- B) *For a teacher dismissed by a school district organized under Article 34 of the School Code, the judicial review must be taken directly to the Illinois Appellate Court for the First District (Section 24-16.5(g)(1) of the School Code).*
- 2) *If the hearing officer recommended dismissal, the decision of the Board may be reversed only if it is found to be arbitrary, capricious, an abuse of discretion, or not in accordance with law (Section 24-16.5(g) of the School Code).*
- 3) *In the event judicial review is instituted by a teacher, any costs of preparing and filing the record of proceedings must be paid by the teacher (Section 24-16.5(g) of the School Code).*
- 4) The record of the proceedings shall contain each of the items enumerated in Section 51.70(a)(2)(B) of this Part.
- c) Pursuant to Section 24-16.5(f) of the School Code, *the Board shall not lose jurisdiction to discharge a teacher if the hearing officer fails to render a decision within the applicable time specified in this Section.*

(Source: Added at 36 Ill. Reg. 12829, effective July 25, 2012)

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- 1) Heading of the Part: Special Education
- 2) Code Citation: 23 Ill. Adm. Code 226
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
226.300	Amendment
226.730	Amendment
226.800	Amendment
226.810	Amendment
226.850	Amendment
- 4) Statutory Authority: 105 ILCS 5/Art. 14 and 2-3.6
- 5) Effective Date of Amendments: July 24, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: March 23, 2012; 36 Ill. Reg. 4363
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: Several changes were made in Section 226.300, including clarifying the introduction in subsection (b), specifying the statutory requirement of considering a child's IEP in subsection (c), and providing a process to provide instruction missed due to absences in subsection (d).

In addition, several nonsubstantive wording and punctuation changes were made in response to JCAR.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No

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- 14) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Number:</u>	<u>Adopted Action:</u>	<u>Register Citation:</u>
226.840	Amendment	36 Ill. Reg. 2042; February 10, 2012

- 15) Summary and Purpose of Amendments: The amendments make changes in response to several new laws, each of which is explained below.

- P.A. 97-123, effective July 14, 2011, further defined requirements for the provision of home/hospital instruction for students with disabilities, necessitating changes in Section 226.300.
- P.A. 97-227, effective January 1, 2012, changed the use of the term "mental retardation" to "intellectual disability". This is in keeping with a federal law that took effect in October 2010. (See Sections 226.800 through 226.850.)
- P.A. 97-284, effective August 9, 2011, defines "students with individualized education programs" (IEPs) for the purposes of determining the allowable percentage of these students in a general education classroom as excluding students with IEPs who receive speech-language services outside of the classroom, provided that the instruction received in the classroom does not require modifications. (See Section 226.730.)

Additionally, modifications eliminated provisions that were obsolete in Sections 226.800(g)(2) and (h)(2). These sections address requirements for the State-approved director of special education, assistant directors, and special education supervisors.

- 16) Information and questions regarding these adopted amendments shall be directed to:

David Andel, Division Administrator
Illinois State Board of Education
100 North First Street, N-253
Springfield, Illinois 62777

217/782-5589

The full text of the Adopted Amendments begins on the next page:

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TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONSPART 226
SPECIAL EDUCATION

SUBPART A: GENERAL

Section	Purpose
226.10	Purpose
226.50	Requirements for a Free Appropriate Public Education (FAPE)
226.60	Charter Schools
226.75	Definitions

SUBPART B: IDENTIFICATION OF ELIGIBLE CHILDREN

Section	
226.100	Child Find Responsibility
226.110	Evaluation Procedures
226.120	Reevaluations
226.130	Additional Procedures for Students Suspected of or Having a Specific Learning Disability
226.135	Additional Procedures for Students Suspected of or Having a Cognitive Disability
226.140	Modes of Communication and Cultural Identification
226.150	Evaluation to be Nondiscriminatory
226.160	Determination of Eligibility (Repealed)
226.170	Criteria for Determining the Existence of a Specific Learning Disability (Repealed)
226.180	Independent Educational Evaluation
226.190	Reevaluation (Repealed)

SUBPART C: THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)

Section	
226.200	General Requirements
226.210	IEP Team
226.220	Development, Review, and Revision of the IEP

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- 226.230 Content of the IEP
- 226.240 Determination of Placement
- 226.250 Child Aged Three Through Five
- 226.260 Child Reaching Age Three

SUBPART D: PLACEMENT

Section

- 226.300 Continuum of Placement Options
- 226.310 Related Services
- 226.320 Service to Students Living in Residential Care Facilities
- 226.330 Placement by School District in State-Operated or Nonpublic Special Education Facilities
- 226.340 Nonpublic Placements by Parents Where FAPE is at Issue
- 226.350 Service to Parentally-Placed Private School Students
- 226.360 Placement by School Districts in Remote Educational Programs

SUBPART E: DISCIPLINE

Section

- 226.400 Disciplinary Actions
- 226.410 Manifestation Determination Review (Repealed)
- 226.420 Appeals (Repealed)
- 226.430 Protection for Children Not Yet Eligible for Special Education (Repealed)
- 226.440 Referral to and Action by Law Enforcement and Judicial Authorities (Repealed)

SUBPART F: PROCEDURAL SAFEGUARDS

Section

- 226.500 Language of Notifications
- 226.510 Notification of Parents' Rights
- 226.520 Notification of District's Proposal
- 226.530 Parents' Participation
- 226.540 Consent
- 226.550 Surrogate Parents
- 226.560 Mediation
- 226.570 State Complaint Procedures

SUBPART G: DUE PROCESS

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Section	
226.600	Calculation of Timelines
226.605	Request for Hearing; Basis (Repealed)
226.610	Information to Parents Concerning Right to Hearing
226.615	Procedure for Request
226.620	Denial of Hearing Request (Repealed)
226.625	Rights of the Parties Related to Hearings
226.630	Qualifications, Training, and Service of Impartial Due Process Hearing Officers
226.635	Appointment, Recusal, and Substitution of Impartial Due Process Hearing Officers
226.640	Scheduling the Hearing and Pre-Hearing Conference
226.645	Conducting the Pre-Hearing Conference
226.650	Child's Status During Due Process Hearing (Repealed)
226.655	Expedited Due Process Hearing
226.660	Powers and Duties of Hearing Officer
226.665	Record of Proceedings
226.670	Decision of Hearing Officer; Clarification
226.675	Monitoring and Enforcement of Decisions; Notice of Ineligibility for Funding
226.680	Reporting of Decisions (Repealed)
226.690	Transfer of Parental Rights

SUBPART H: ADMINISTRATIVE REQUIREMENTS

Section	
226.700	General
226.710	Policies and Procedures
226.720	Facilities and Classes
226.730	Class Size for 2009-10 and Beyond
226.731	Class Size Provisions for 2007-08 and 2008-09
226.735	Work Load for Special Educators
226.740	Records; Confidentiality
226.750	Additional Services
226.760	Evaluation of Special Education
226.770	Fiscal Provisions
226.780	Procedures for Withdrawal Hearings before the Regional Board of School Trustees

SUBPART I: PERSONNEL

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Section	
226.800	Personnel Required to be Qualified
226.810	Special Education Teaching Approval
226.820	Authorization for Assignment
226.830	List of Independent Evaluators
226.840	Qualifications of Evaluators
226.850	List of Qualified Workers
226.860	List of Noncertified Employees

AUTHORITY: Implementing Article 14 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art.14 and 2-3.6].

SOURCE: Adopted August 12, 1976; rules repealed and new emergency rules adopted at 2 Ill. Reg. 37, p. 29, effective September 1, 1978, for a maximum of 150 days; rules repealed and new rules adopted at 3 Ill. Reg. 5, p. 932, effective February 1, 1979; emergency amendment at 4 Ill. Reg. 38, p. 328, effective September 15, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 8021, effective July 22, 1981; amended at 6 Ill. Reg. 558, effective December 23, 1981; emergency amendment at 7 Ill. Reg. 6511, effective May 6, 1983, for a maximum of 150 days; emergency amendment at 7 Ill. Reg. 8949, effective July 15, 1983, for a maximum of 150 days; codified at 8 Ill. Reg. 6669; amended at 8 Ill. Reg. 7617, effective May 17, 1984; emergency amendment at 10 Ill. Reg. 3292, effective January 27, 1986, for a maximum of 150 days; emergency expired June 24, 1986; amended at 10 Ill. Reg. 18743, effective October 22, 1986; amended at 10 Ill. Reg. 19411, effective October 31, 1986; amended at 13 Ill. Reg. 15388, effective September 14, 1989; emergency amendment at 14 Ill. Reg. 11364, effective June 26, 1990, for a maximum of 150 days; emergency expired November 23, 1990; amended at 15 Ill. Reg. 40, effective December 24, 1990; amended at 16 Ill. Reg. 12868, effective August 10, 1992; emergency amendment at 17 Ill. Reg. 13622, effective August 3, 1993, for a maximum of 150 days; emergency expired December 31, 1993; amended at 18 Ill. Reg. 1930, effective January 24, 1994; amended at 18 Ill. Reg. 4685, effective March 11, 1994; amended at 18 Ill. Reg. 16318, effective October 25, 1994; amended at 19 Ill. Reg. 7207, effective May 10, 1995; amended at 20 Ill. Reg. 10908, effective August 5, 1996; amended at 21 Ill. Reg. 7655, effective July 1, 1997; Part repealed, new Part adopted at 24 Ill. Reg. 13884, effective August 25, 2000; amended at 27 Ill. Reg. 8126, effective April 28, 2003; amended at 31 Ill. Reg. 9915, effective June 28, 2007; amended at 32 Ill. Reg. 4828, effective March 21, 2008; amended at 34 Ill. Reg. 17433, effective October 28, 2010; amended at 35 Ill. Reg. 8836, effective May 26, 2011; peremptory amendment, pursuant to PA 97-461, at 35 Ill. Reg. 14836, effective August 22, 2011; amended at 36 Ill. Reg. 12870, effective July 24, 2012.

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SUBPART D: PLACEMENT

Section 226.300 Continuum of Placement Options

Each local school district shall, in conformance with the requirements of 34 CFR 300.39 and 300.115, ensure that a continuum of placements is available to meet the needs of children with disabilities for special education and related services. With respect to the home instruction and instruction in hospitals and institutions referenced in 34 CFR 300.39 and 300.115:

- a) The child receives services at home or in a hospital or other setting because he or she is unable to attend school elsewhere due to a medical condition.
- b) When an eligible student has a medical condition that will cause an absence for two or more consecutive weeks of school or ongoing intermittent absences, as defined in Section 14-13.01(a) of the School Code [105 ILCS 5/14-13.01(a)], the IEP Team for that child shall consider the need for home or hospital services. The provision of home or hospital services ~~Such consideration~~ shall be based upon a written statement from a physician licensed to practice medicine in all its branches that which specifies:
 - 1) the child's medical condition;
 - 2) the impact on the child's ability to participate in education (the child's physical and mental level of tolerance for receiving educational services); and
 - 3) the anticipated duration or nature of the child's absence from school.
- c) Special education and related services required by the child's IEP must be implemented as part of the child's home or hospital instruction, unless the IEP Team determines that modifications are necessary during the home or hospital instruction due to the child's condition. (Section 14-13.01 of the School Code) ~~If an IEP Team determines that home or hospital services are medically necessary, the team shall develop or revise the child's IEP accordingly.~~
- d) The amount of instructional or related service time provided through the home or hospital program shall be determined in relation to the child's educational needs and physical and mental health needs. The amount of instructional time shall not be less than five hours per week unless the physician has certified in writing that

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the child should not receive as many as five hours of instruction in a school week. In the event that the child's illness or a teacher's absence reduces the number of hours in a given week to which the child is entitled, the school district shall work with the IEP Team and the child's parents to provide the number of hours missed, as medically advisable for the child.

- e) A child whose home or hospital instruction is being provided via telephone or other technological device shall receive not less than two hours per week of direct instructional services.
- f) Instructional time shall be scheduled only on days when school is regularly in session, unless otherwise agreed to by all parties.
- g) Home or hospital instructors shall meet the requirements of 23 Ill. Adm. Code 1.610 (Personnel Required to be Qualified).
- h) In accordance with Section 14-13.01(a) of the School Code, servicesServices required by the IEP shall be implemented not later than five school days~~as soon as possible~~ after the district receives the physician's statement.

(Source: Amended at 36 Ill. Reg. 12870, effective July 24, 2012)

SUBPART H: ADMINISTRATIVE REQUIREMENTS

Section 226.730 Class Size for 2009-10 and Beyond

- a) When a student's IEP calls for services in a general education classroom, the student must be served in a class that is composed of students of whom at least 70 percent are without IEPs, that utilizes the general curriculum, that is taught by an instructor certified for general education, and that is not designated as a general remedial classroom. For purposes of this subsection (a), a student who receives speech services outside of the general education classroom and who does not require modifications to the content of the general education curriculum shall be included in the calculation of the percentage of students without IEPs. (See 105 ILCS 5/14-2.)
- b) Class size means the total number of students an educator serves during any special education class. As used in this subsection (b), "class" means any circumstance in which ~~where~~ only students with IEPs are served and at least one

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special education teacher is assigned and provides instruction and/or therapy exclusively to students with IEPs. In the formation of special education classes, consideration shall be given to the age of the students, the nature and severity of their disabilities, the educational needs of the students, and the degree of intervention necessary, subject to the limitations of this subsection (b).

- 1) Except as provided in subsection (b)(5) of this Section, classes in which all the students receive special education services for 20 percent of the school day or less shall have at least one qualified teacher for each 15 students in attendance during any given class. However, the district may increase the class size by a maximum of two students when a paraprofessional is provided for the entire class.
- 2) Except as provided in subsection (b)(5) of this Section, each class in which any student receives special education services for more than 20 percent of the school day but no more than 60 percent of the school day shall have at least one qualified teacher for each ten students in attendance during that class. However, the district may increase the class size by a maximum of five students when a paraprofessional is provided for the entire class.
- 3) Except as provided in subsection (b)(5) of this Section, each class in which any student receives special education services for more than 60 percent of the school day shall have at least one qualified teacher for each eight students in attendance during that class. However, the district may increase the class size by a maximum of five students when a paraprofessional is provided for the entire class.
- 4) Each class for children ages three through five shall have at least one qualified teacher for each five students in attendance during that class. However, the district may increase the class size by a maximum of five students when a paraprofessional is provided for the entire class.
- 5) For any school year in which the amount of State reimbursement for teachers identified in Section 14-13.01 of the School Code [105 ILCS 5/14-13.01] exceeds the amount in effect on January 1, 2007⁵; by at least 100 percent and no corresponding reduction has been made in other State sources of support for special education:

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- A) The maximum class size stated in subsection (b)(1) of this Section shall be 13 rather than 15;
 - B) The maximum class size stated in subsection (b)(2) of this Section shall be eight rather than 10; and
 - C) The maximum class size stated in subsection (b)(3) of this Section shall be six rather than eight.
- 6) The provisions of subsections (b)(1) through (5) of this Section notwithstanding, class size shall be limited according to the needs of the students for individualized instruction and services.
- c) The maximum class sizes set forth in subsection (b) of this Section shall, if necessary, be further restricted at the local level to account for the activities and services in which the affected educators participate in order to provide students with IEPs the free, appropriate public education in the least restrictive environment to which they are entitled.

(Source: Amended at 36 Ill. Reg. 12870, effective July 24, 2012)

SUBPART I: PERSONNEL

Section 226.800 Personnel Required to be Qualified

- a) General
 - 1) Each school district, or the cooperative entity of which it is a member, shall employ sufficient professional and noncertified personnel to deliver and supervise the full continuum of special education and related services needed by the eligible students who reside in the district. The number and types of personnel employed shall be based on students' need rather than administrative convenience.
 - 2) Each district or cooperative entity shall periodically submit to the State Board of Education, on forms supplied by the State Board, the roster of the individuals who will be or are providing special education or related services. The State Board may request any additional documentation needed in order to verify that each individual holds the qualifications that

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are required for his or her assignments.

- 3) Reimbursement for personnel expenditures shall be made by the State Board with respect to only those individuals who are qualified, pursuant to this Subpart I, to *deliver services to students with IEPs* [105 ILCS 5/14-1.10 and 14-13.01] and whose positions are listed either in Section 226.850 or 226.860 of this Part, or pursuant to 23 Ill. Adm. Code 25.48 (Short-Term Emergency Certification in Special Education) when applicable.
 - 4) Each district or cooperative entity shall develop and implement a comprehensive personnel development program for all personnel involved with the education of children with disabilities.
- b) Professional Instructional Personnel
Each individual employed in a professional instructional capacity shall:
- 1) hold a valid special preschool-age 21 certificate and the qualifications required for the teaching area pursuant to 23 Ill. Adm. Code 25.43; or
 - 2) hold another valid teaching certificate and approval issued by the State Board of Education specific to the area of responsibility (see Section 226.810 of this Part); or
 - 3) be employed pursuant to an authorization for assignment issued to the employing entity under Section 226.820 of this Part; or
 - 4) hold short-term emergency certification issued pursuant to 23 Ill. Adm. Code 25.48 (beginning January 1, 2002).
- c) An individual assigned as a vocational coordinator shall be required to hold approval for this position, which shall be granted provided that the individual submits an application demonstrating that he or she:
- 1) has two years' teaching experience;
 - 2) holds either a special preschool-age 21 certificate or a high school certificate; and

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- 3) has completed at least 16 semester hours of college coursework, which shall at least include each of the areas identified in subsections (c)(3)(A) through (D) and may include one or more of the areas identified in subsections (c)(3)(E) through (I) of this Section:
 - A) Survey of the exceptional child;
 - B) Characteristics of the ~~mentally retarded~~ student with an intellectual disability;
 - C) Characteristics of the socially and/or emotionally maladjusted student;
 - D) Vocational programming for students with disabilities;
 - E) Characteristics of other exceptionalities;
 - F) Methods course in special education;
 - G) Guidance and counseling;
 - H) Educational and psychological diagnosis;
 - I) Vocational and technical education.
- d) An individual assigned as a teacher coordinator shall be required to hold approval for this position, which shall be granted provided that the individual submits an application demonstrating that he or she:
 - 1) holds either a special preschool-age 21 certificate endorsed for the disability area of assignment or a high school certificate with special education approval in the applicable disability area issued pursuant to Section 226.810 of this Part;
 - 2) has completed a course in vocational programming for students with disabilities; and
 - 3) has at least one year's work experience outside the field of education or has completed at least one course in either guidance and counseling or

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vocational and technical education.

- e) An individual assigned as a business manager's assistant shall hold an administrative certificate endorsed for chief school business official pursuant to 23 Ill. Adm. Code 25.345.
- f) Qualified Bilingual Specialists
Professional staff otherwise qualified pursuant to this Section shall be considered "qualified bilingual specialists" if they submit the required application and meet the applicable requirements set forth in this subsection (f).
 - 1) A holder of a special preschool-age 21 certificate endorsed in the area of responsibility pursuant to 23 Ill. Adm. Code 25.43 shall successfully complete a language examination in the non-English language of instruction and shall have completed coursework covering:
 - A) Psychological/educational assessment of students with disabilities who have limited English proficiency;
 - B) Theoretical foundations of bilingual education and English as a second language, including the study of first and second language acquisition; and
 - C) Methods and materials for teaching students of limited English proficiency or students with disabilities who have limited English proficiency.
 - 2) A holder of an early childhood, elementary, high school, or special certificate who also holds special education approval in the area of responsibility (see Section 226.810 of this Part) shall successfully complete a language examination in the non-English language of instruction and shall have completed the coursework listed in subsections (f)(1)(A), (B), and (C) of this Section.
 - 3) A holder of an early childhood, elementary, high school, or special certificate who also holds approval to teach bilingual education or English as a second language shall have completed coursework covering:
 - A) Methods for teaching in the special education area of assignment;

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- B) Psychological/educational assessment of students with disabilities who have limited English proficiency, or psychological diagnosis for children with all types of disabilities; and
 - C) Characteristics of students, or characteristics of students with limited English proficiency specifically, in the special education area of assignment.
- 4) A holder of a transitional bilingual certificate issued pursuant to 23 Ill. Adm. Code 25.90 and endorsed for the language of assignment shall have completed two years of successful teaching experience and have completed coursework covering:
- A) Survey of children with all types of disabilities;
 - B) Assessment of the bilingual student, or psychological/educational assessment of the student with disabilities who has limited English proficiency;
 - C) Theoretical foundations of bilingual education and English as a second language, including the study of first and second language acquisition;
 - D) Methods for teaching in the special education area of assignment; and
 - E) Characteristics of students, or characteristics of students with limited English proficiency specifically, in the special education area of assignment.
- 5) A holder of a school service personnel certificate endorsed for guidance, school social work, school psychology, or speech-language pathology shall successfully complete an examination in the non-English language and shall have completed coursework in assessment of the bilingual student or psychological/educational assessment of the student with disabilities who has limited English proficiency.
- g) Directors and Assistant Directors of Special Education

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Each school district, or the cooperative entity of which it is a member, shall employ a full-time director of special education, who shall be the chief administrative officer of the special education programs and services of the district or cooperative entity. ~~The provisions of subsections (g)(1) and (2) of this Section shall apply through June 30, 2005. Beginning July 1, 2005, directors and assistant directors of special education shall be subject to the requirements of 23 Ill. Adm. Code 29.140.~~

1) Each director or assistant director of special education shall hold a valid administrative certificate issued pursuant to 23 Ill. Adm. Code 25.365 and a master's degree, including 30 semester hours of coursework distributed among all the areas specified in either 23 Ill. Adm. Code 25.365(b) or (c), as applicable. Beginning July 1, 2005, directors and assistant directors of special education shall be subject to the requirements of 23 Ill. Adm. Code 29.140 (Director of Special Education).

~~2) Each individual who will function as a director or assistant director of special education shall submit an application for special education administrative approval on a form supplied by the State Board of Education.~~

~~2)3)~~ Each school district or the cooperative entity of which it is a member, shall submit to the State Board of Education a letter identifying the individual employed as the director of special education. If the individual is qualified as required, the State Board shall confirm that the individual is the State-approved director of special education for the district or cooperative entity.

h) Supervisors

1) Each district or cooperative entity shall employ sufficient supervisory personnel to provide consultation to and coordination of special education services.

~~2) Each individual performing a supervisory function shall hold a master's degree, including at least 15 semester hours of coursework distributed among all the following areas:~~

~~A) Survey of exceptional children;~~

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- ~~B) Characteristics courses in the areas to be supervised;~~
- ~~C) Methods courses in the areas to be supervised;~~
- ~~D) Educational and psychological diagnosis and remedial techniques;
and~~
- ~~E) Supervision of programs for exceptional children.~~

~~2)3)~~ Each individual performing a supervisory function shall ~~also~~ hold one of the following~~either~~:

- A) a valid special preschool-age 21 certificate in the area to be supervised, endorsed for supervision pursuant to 23 Ill. Adm. Code 25.497, with two years' teaching experience in that area; or
- B) a valid school service personnel certificate endorsed for supervision and two years' experience in the area to be supervised; or
- C) a valid administrative certificate and either a valid special preschool-age 21 certificate endorsed for the area to be supervised or special education approval in that area.

i) Chief Administrator of Special School

The chief administrator of a special school shall hold an administrative certificate with a general administrative endorsement issued pursuant to 23 Ill. Adm. Code 25.335 or 25.365 and either:

- 1) an endorsement or approval that is specific to at least one of the disabilities prevalent in the students served by the school, if the school serves students who are deaf or hard of hearing, blind or visually impaired, or speech- and language-impaired; or
- 2) an endorsement as Learning Behavior Specialist I that either is unlimited or specific to one of the disabilities prevalent in the students served by the school (see 23 Ill. Adm. Code 25.46); or

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- 3) approval as an LBS I issued by the State Board of Education pursuant to Section 226.810 of this Part that either is unlimited or specific to one of the disabilities prevalent in the students served by the school.
- j) Other Professional Personnel
Each individual employed in a professional capacity not specified in subsections (a) through (i) of this Section shall, as appropriate to his or her assignment, hold:
- 1) the school service personnel certificate endorsed as appropriate to the area of responsibility (see 23 Ill. Adm. Code 25, Subpart D); or
 - 2) a valid license or permission to practice, if the individual's profession is governed by such a requirement and either no educational credential in the same or a related field is issued by the State Board of Education (e.g., for a physical therapist) or the School Code permits the individual to perform the functions assigned; or
 - 3) a credential, regardless of title, issued by a professional association or organization in the relevant field, when no educational credential in the same or a related field is issued by the State Board of Education and no license or permission to practice is required by the State (e.g., for a music therapist or a daily living skills specialist).
- k) Noncertified Personnel
- 1) Each noncertified professional individual employed in a special education class, program, or service, and each individual providing assistance at a work site, shall function under the general direction of a professional staff member.
 - 2) Each program assistant/aide, as well as each nonemployee providing any service in the context of special education, shall function under the direct supervision of a professional staff member.
 - 3) Each district shall provide training experiences appropriate to the nature of their responsibilities to the individuals discussed in subsections (k)(1) and (2) of this Section. Training shall be in lieu of the requirements for noncertified personnel set forth in 23 Ill. Adm. Code 1, Subpart F.

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(Source: Amended at 36 Ill. Reg. 12870, effective July 24, 2012)

Section 226.810 Special Education Teaching Approval

Special education approval may be issued by the State Board of Education to an individual who does not hold a special preschool-age 21 certificate or who lacks some of the qualifications for one of the endorsements enumerated in 23 Ill. Adm. Code 25.43.

- a) Beginning July 1, 2001, special education teaching approval will be issued for individuals to serve as Learning Behavior Specialist (LBS) I and may be limited to one or more of the following areas, as applicable (see 23 Ill. Adm. Code 25.47):
 - 1) Learning disabilities;
 - 2) Social/emotional disorders;
 - 3) [Intellectual disability](#)~~Mental retardation~~; and
 - 4) Physically handicapped.
- b) An individual who holds an early childhood, special, elementary, high school, or transitional bilingual certificate shall receive approval to teach in a special education area listed in subsection (a) of this Section if he or she has successfully completed college-level coursework addressing each of the following areas:
 - 1) Survey of exceptional children;
 - 2) Characteristics of special education students in the specific area of approval sought;
 - 3) Methods of teaching in the area of special education approval sought; and
 - 4) Psychological diagnosis for children with all types of disabilities.
- c) Except as provided in subsection (d) of this Section, an individual who wishes to receive special education teaching approval shall submit an application for a special certificate on a form supplied by the State Board of Education and shall comply with such other application procedures as the State Board may require.

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- 1) If the individual qualifies for a special certificate, the State Board shall issue one and endorse it as warranted.
 - 2) If the individual does not qualify for a special certificate, the State Board shall evaluate the application for special education approval and either issue ~~the~~ approval or notify the applicant of any deficiencies.
- d) Special education approval issued prior to January 1, 2002, shall not be limited with regard to time or district of employment but shall be valid only for the special education areas indicated and the grade levels to which the individual's certificate applies. Any approval issued on or after January 1, 2002, shall be valid for three years, after which time the holder shall no longer be assigned to a special education teaching position unless he or she has received an unlimited LBS I endorsement pursuant to 23 Ill. Adm. Code 25.47 (Special Provisions for the Learning Behavior Specialist I Approval).
- e) As of July 1, 2001, each teaching approval listed in subsection (a) of this Section shall automatically be reissued for service as an LBS I. An individual's pre-existing approvals shall result in receipt of either a limited or an unlimited LBS I approval (see 23 Ill. Adm. Code 25.47).
- f) Beginning January 1, 2002, the State Board shall issue early childhood special education approval to an individual who either holds an early childhood certificate or a special preschool-age 21 certificate with an LBS I endorsement, provided that the individual makes application for approval on a form supplied by the State Board demonstrating that he or she has successfully completed coursework in all the following areas:
- 1) Methods – Developmentally and individually appropriate methods for fostering the social, emotional, cognitive, communication, adaptive, and motor development and learning of young children with special needs in various settings, such as the home, the school, and the community.
 - 2) Assessment – Strategies, procedures, and formal and informal instruments for assessing young children's social, emotional, cognitive, communication, and motor skills; family concerns, priorities, and resources; and school, home, and community learning environments; and

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methods for conducting formative and summative individual and program evaluation.

- 3) Language Development – Typical and atypical language development in young children; specific language disabilities; the relationship between communication delays and other areas of early learning and development; and alternative communication systems for young children with disabilities.
- 4) Family and Community Relationships – Strategies in developing positive and supportive relationships with families of young children with special needs, including the legal and philosophical basis for family participation; family-centered services; and strategies for working with socially, culturally, and linguistically diverse families. Strategies and models for promoting effective consultation and collaboration with other professionals and agencies within the community.

(Source: Amended at 36 Ill. Reg. 12870, effective July 24, 2012)

Section 226.850 List of Qualified Workers

The following table lists the work assignments and qualifications for qualified workers for whom reimbursement may be requested under Section 14-13.01 of the School Code. All requirements necessary for proper certification or approval in these work assignments are found in this Subpart I, unless otherwise noted.

WORK ASSIGNMENT	REQUIRED QUALIFICATIONS
Adapted Physical Education	A valid Illinois teaching certificate endorsed for physical education and an adapted physical education approval encompassing the grade levels and age ranges of the students served.
Administrator of a Special School	Must meet the requirements of Section 226.800(i) of this Part.
Art Therapist	Registration from American Art Therapy Association or a master's degree in art therapy awarded by a regionally accredited institution of higher education.

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WORK ASSIGNMENT

REQUIRED QUALIFICATIONS

Assistant Director	Must hold a valid administrative certificate with a director of special education endorsement issued pursuant to 23 Ill. Adm. Code 25.365 and 23 Ill. Adm. Code 1.705 and meet the requirements of Section 226.800(g) of this Part.
Audiologist	Licensed to practice as an audiologist by the Department of Financial and Professional Regulation pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110] or Certificate of Clinical Competence in Audiology from the American Speech-Language-Hearing Association.
Autism	A valid Illinois teaching certificate either with a categorical or cross-categorical special education endorsement or approval encompassing the grade levels and age ranges of the students served.
Behavior Analyst	Board Certified Behavior Analyst (BCBA) as evidenced by a current valid certificate awarded by the Behavior Analyst Certification Board, Inc.
Cognitive Disability	A valid Illinois teaching certificate either with a cross-categorical special education endorsement or approval or intellectual disability mental retardation endorsement or approval encompassing the grade levels and age ranges of the students served.
Cross-categorical	A valid Illinois teaching certificate with a cross-categorical special education endorsement or approval encompassing the grade levels and age ranges of the students served.
Daily Living Skills Specialist	Certificate from the Academy for Certification of Vision Rehabilitation and Education Professionals or its predecessor organization.
Diagnostic	A valid Illinois prekindergarten-through-age-21 (PreK-21) teaching certificate either with a learning disability or cross-

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WORK ASSIGNMENT

REQUIRED QUALIFICATIONS

categorical special education endorsement or approval.

Early Childhood

A valid Illinois early childhood certificate either with an early childhood special education endorsement or early childhood special education approval or a PreK-21 certificate endorsed either for categorical or cross-categorical special education [and early childhood special education approval](#).

Emotional Disability

A valid Illinois teaching certificate either with a cross-categorical special education or a social-emotional disorders endorsement or approval encompassing the grade levels and age ranges of the students served.

Hearing Impairment

A valid Illinois teaching certificate endorsed for teacher of students with deafness/hard of hearing pursuant to 23 Ill. Adm. Code 25.43.

Home/Hospital Instructor
(see Section 226.300 of
this Part)

A valid Illinois teaching certificate either with a cross-categorical special education endorsement or approval encompassing the area of student's disability (i.e., [intellectual disability](#)~~mental retardation~~, physically handicapped, ~~or has~~ learning disabilities or social/emotional disorders), or a valid Illinois teaching certificate endorsed in the area of speech-language pathology, blind or visually impaired, or deaf or hard of hearing.

Infant/Toddler/Family
Specialist

For federally funded programs serving infants and toddlers, birth through two years of age: Completion of a degree program with evidence of specific training in child development and family development specific for children ages birth to five years.

Inservice Coordinator

A valid Illinois teaching certificate endorsed either for categorical or cross-categorical special education or a valid Illinois school service personnel certificate (see 23 Ill. Adm. Code 25.Subpart D).

Medical Services
Personnel (Diagnostics
and Evaluation)

Registration with the Illinois Department of Financial and Professional Regulation.

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WORK ASSIGNMENT	REQUIRED QUALIFICATIONS
Music Therapist	Registration from the American Music Therapy Association or master's degree in music therapy from a regionally accredited institution of higher education.
Occupational Therapist	Licensed by the Illinois Department of Financial and Professional Regulation pursuant to the Illinois Occupational Therapy Practice Act [225 ILCS 75].
Orientation and Mobility Specialist	Certificate from the Academy for Certification of Vision Rehabilitation and Education Professionals or its predecessor organization or the Association for the Education and Rehabilitation of the Blind and Visually Impaired.
Orthopedic Impairment	A valid Illinois teaching certificate either with a cross-categorical special education or physically handicapped endorsement or approval encompassing the grade levels and age ranges of students served.
Physical Therapist	Licensed by the Illinois Department of Financial and Professional Regulation pursuant to the Illinois Physical Therapy Act [225 ILCS 90].
Recreational Therapist	Licensed by the National Council for Therapeutic Recreation or its predecessor organization.
Rehabilitation Counselor	Certificate from the Commission on Rehabilitation Counselor Certification (CRCC) or a master's degree in rehabilitation counseling awarded by a regionally accredited institution of higher education.
School Counselor/Guidance Counselor	Meets the requirements of 23 Ill. Adm. Code 25.43 appropriate to the area of responsibility or holds a valid Illinois school service personnel certificate endorsed for school counseling.
School Counselor Intern	Meets the requirements of 23 Ill. Adm. Code 25.227.

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WORK ASSIGNMENT	REQUIRED QUALIFICATIONS
School Nurse	Meets the requirements of Section 10-22.23 of the School Code [105 ILCS 5/10-22.23] and 23 Ill. Adm. Code 25.245.
School Nurse (Grandfathered)	Employed as a registered school nurse prior to July 1, 1976 and continuing in the same position with the same district or joint agreement.
School Nurse Intern	Meets the requirements of Section 226.820(b) of this Part. Reimbursement for this position shall not be for a period of time that exceeds four months.
School Psychologist	Meets the requirements of Section 14-1.09 of the School Code [105 ILCS 5/14-1.09] and 23 Ill. Adm. Code 25.235.
School Psychologist Intern	Meets the requirements of Section 226.820(b) of this Part.
School Social Worker	Meets the requirements of Section 14-1.09a of the School Code [105 ILCS 5/14-1.09a], and Section 226.820(b) of this Part and 23 Ill. Adm. Code 25.215, as applicable.
School Social Work Intern	Meets the requirements of Section 226.820(b) of this Part.
Specific Learning Disability	A valid Illinois teaching certificate either with a cross-categorical special education or learning disability endorsement or approval encompassing the grade levels and age ranges of the students served.
Speech-Language	Non-teaching Position: Meets the requirements of Section 14-1.09b of the School Code [105 ILCS 5/14-1.09b] and 23 Ill. Adm. Code 25.252, as applicable, for speech-language pathologist. Teaching Position: Holds a valid Illinois teaching certificate issued pursuant to 23 Ill. Adm. Code 25.43 endorsed in speech-language pathology.
Speech-Language Pathologist Intern	Meets the requirements of 23 Ill. Adm. Code 25.255 and Section 226.820(b) of this Part.

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WORK ASSIGNMENT	REQUIRED QUALIFICATIONS
(Interim)	
State-Approved Director of Special Education (serving in a full-time capacity)	Meets the requirements of 23 Ill. Adm. Code 25.365 and Section 226.800(g) of this Part.
Supervisor	Meets the requirements of Section 226.800(h) of this Part and 23 Ill. Adm. Code 1.705(h), as applicable.
Support Teacher	A valid Illinois teaching certificate either with a categorical or cross-categorical special education endorsement or approval encompassing the grade levels and age ranges of the students served.
Teacher Coordinator of Vocational Education	Meets the requirements of Section 226.800(d) of this Part.
Visual Impairment	A valid Illinois teaching certificate issued pursuant to 23 Ill. Adm. Code 25.43 and endorsed for teacher of students with visual impairments.
Vocational Coordinator	Meets the requirements set forth in Section 226.800(c) of this Part and 23 Ill. Adm. Code 1.737(c)(3).
Vocational Transition Specialist	Must hold a contract with the Illinois Department of Human Services, Division of Rehabilitation Services, under the Secondary Transition Experience Program (STEP).

(Source: Amended at 36 Ill. Reg. 12870, effective July 24, 2012)

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Video Gaming (General)
- 2) Code Citation: 11 Ill. Adm. Code 1800
- 3) Section Number: 1800.250 Emergency Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by the Video Gaming Act [230 ILCS 40], specifically Section 78(a)(3) of that Act [230 ILCS 40/78(a)(3)]
- 5) Effective date of Amendment: July 24, 2012
- 6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: The emergency amendment will expire at the end of the 150-day period or upon adoption of permanent rules, whichever comes first.
- 7) Date filed with the Index Department: July 24, 2012
- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the Illinois Gaming Board's principal office and is available for public inspection.
- 9) Reason for Emergency: The Illinois Gaming Board is mandated by Section 78(b) of the Video Gaming Act [230 ILCS 40/78(b)] to "adopt emergency rules to administer this Act in accordance with Section 5-45 of the Illinois Administrative Procedure Act."
- 10) A Complete Description of the Subjects and Issues Involved: Section 60(c) of the Video Gaming Act requires that "revenues generated from the play of video gaming terminals shall be deposited by the terminal operator, who is responsible for tax payments, in a specially created, separate bank account...." Implementing this statutory provision, Section 1800.250(i) of the video gaming rules (11 Ill. Admin. Code 1800.250(i)) requires licensed video terminal operators to maintain a separate bank account for each licensed video gaming location.

The central communications system for video gaming, established and operated under the mandate of Section 15(15) of the Act [230 ILCS 40/15(15)], is incompatible with the present rule, as this communications system requires the establishment of *only one* bank account by each licensed video terminal operator. To conform with the Act, and the technical specifications of the central communications system, the present rulemaking

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amends Section 1800. 250(i) to provide that each licensed video terminal operator shall maintain a single bank account covering all of the licensed locations with which it contracts.

- 11) Are there any other amendments pending to this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action</u>	<u>Illinois Register Citation</u>
1800.110	Amendment	36 Ill. Reg. 5935, April 20, 2012
1800.250	Amendment	36 Ill. Reg. 6197, April 27, 2012
1800.270	Amendment	36 Ill. Reg. 6197, April 27, 2012
1800.930	Amendment	36 Ill. Reg. 6197, April 27, 2012
1800.820	New Section	36 Ill. Reg. 9377, June 29, 2012
1800.230	Amendment	36 Ill. Reg. 9863, July 13, 2012
1800.250	Amendment	36 Ill. Reg. 9863, July 13, 2012
1800.260	Amendment	36 Ill. Reg. 9863, July 13, 2012
1800.310	Amendment	36 Ill. Reg. 9863, July 13, 2012
1800.520	Amendment	36 Ill. Reg. 9863, July 13, 2012
1800.830	New Section	36 Ill. Reg. 9863, July 13, 2012
1800.1310	New Section	36 Ill. Reg. 9863, July 13, 2012
1800.250	Amendment	36 Ill. Reg. 10578, July 29, 2012

- 12) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].
- 13) Information and questions regarding this rulemaking shall be directed to:

Lynn J. Carter
 General Counsel
 Illinois Gaming Board
 160 North LaSalle Street
 Chicago, Illinois 60601

Fax No. 312/814-7253
 lynn.carter@igb.illinois.gov

The full text of the Emergency Amendment begins on the next page.

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NOTICE OF EMERGENCY AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, LOTTERY, AND VIDEO GAMING
SUBTITLE D: VIDEO GAMING
CHAPTER I: ILLINOIS GAMING BOARD

PART 1800
VIDEO GAMING (GENERAL)

SUBPART A: GENERAL PROVISIONS

Section	
1800.110	Definitions
1800.115	Gender
1800.120	Inspection

SUBPART B: DUTIES OF LICENSEES

Section	
1800.210	General Duties of All Video Gaming Licensees
1800.220	Continuing Duty to Report Violations
1800.230	Duties of Licensed Manufacturers
1800.240	Duties of Licensed Distributors
1800.250	Duties of Licensed Video Terminal Operators

EMERGENCY

1800.260	Duties of Licensed Technicians
1800.270	Duties of Licensed Video Gaming Locations

SUBPART C: STANDARDS OF CONDUCT FOR LICENSEES

Section	
1800.310	Grounds for Disciplinary Actions
1800.320	Minimum Standards for Use Agreements
1800.330	Economic Disassociation

SUBPART D: LICENSING QUALIFICATIONS

Section	
1800.410	Coverage of Subpart
1800.420	Qualifications for Licensure
1800.430	Persons with Significant Influence or Control

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SUBPART E: LICENSING PROCEDURES

Section

1800.510	Coverage of Subpart
1800.520	Applications
1800.530	Submission of Application
1800.540	Application Fees
1800.550	Consideration of Applications by the Board
1800.555	Withdrawal of Applications
1800.560	Issuance of License
1800.570	Renewal of License
1800.580	Renewal Fees and Dates

SUBPART F: DENIALS OF APPLICATIONS FOR LICENSURE

Section

1800.610	Coverage of Subpart
1800.615	Requests for Hearing
1800.620	Appearances
1800.625	Appointment of Administrative Law Judge
1800.630	Discovery
1800.635	Subpoenas
1800.640	Motions for Summary Judgment
1800.650	Proceedings
1800.660	Evidence
1800.670	Prohibition on Ex Parte Communication
1800.680	Sanctions and Penalties
1800.690	Transmittal of Record and Recommendation to the Board
1800.695	Status of Applicant for Licensure Upon Filing Request for Hearing

SUBPART G: DISCIPLINARY ACTIONS AGAINST LICENSEES

Section

1800.710	Coverage of Subpart
1800.715	Notice of Proposed Disciplinary Action Against Licensees
1800.720	Hearings in Disciplinary Actions
1800.725	Appearances
1800.730	Appointment of Administrative Law Judge

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- 1800.735 Discovery
- 1800.740 Subpoenas
- 1800.745 Motions for Summary Judgment
- 1800.750 Proceedings
- 1800.760 Evidence
- 1800.770 Prohibition on Ex Parte Communication
- 1800.780 Sanctions and Penalties
- 1800.790 Transmittal of Record and Recommendation to the Board

SUBPART H: LOCATION OF VIDEO GAMING TERMINALS IN
LICENSED VIDEO GAMING LOCATIONS

- Section
- 1800.810 Location and Placement of Video Gaming Terminals

SUBPART I: SECURITY INTERESTS

- Section
- 1800.910 Approvals Required, Applicability, Scope of Approval
- 1800.920 Notice of Enforcement of a Security Interest
- 1800.930 Prior Registration

SUBPART J: TRANSPORTATION, REGISTRATION,
AND DISTRIBUTION OF VIDEO GAMING TERMINALS

- Section
- 1800.1010 Restriction on Sale, Distribution, Transfer, Supply and Operation of Video Gaming Terminals
- 1800.1020 Transportation of Video Gaming Terminals into the State
- 1800.1030 Receipt of Video Gaming Terminals in the State
- 1800.1040 Transportation of Video Gaming Terminals Between Locations in the State
- 1800.1050 Approval to Transport Video Gaming Terminals Outside of the State
- 1800.1060 Placement of Video Gaming Terminals
- 1800.1065 Registration of Video Gaming Terminals
- 1800.1070 Disposal of Video Gaming Terminals

SUBPART K: STATE-LOCAL RELATIONS

- Section

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1800.1110 State-Local Relations

SUBPART L: FINGERPRINTING OF APPLICANTS

Section

1800.1210	Definitions
1800.1220	Entities Authorized to Perform Fingerprinting
1800.1230	Qualification as a Livescan Vendor
1800.1240	Fingerprinting Requirements
1800.1250	Fees for Fingerprinting
1800.1260	Grounds for Revocation, Suspension and Denial of Contract

AUTHORITY: Implementing and authorized by the Video Gaming Act [230 ILCS 40].

SOURCE: Adopted by emergency rulemaking at 33 Ill. Reg. 14793, effective October 19, 2009, for a maximum of 150 days; adopted at 34 Ill. Reg. 2893, effective February 22, 2010; emergency amendment at 34 Ill. Reg. 8589, effective June 15, 2010, for a maximum of 150 days; emergency expired November 11, 2010; amended at 35 Ill. Reg. 1369, effective January 5, 2011; emergency amendment at 35 Ill. Reg. 13949, effective July 29, 2011, for a maximum of 150 days; emergency expired December 25, 2011; amended at 36 Ill. Reg. 840, effective January 6, 2012; emergency amendment at 36 Ill. Reg. 4150, effective February 29, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 5455, effective March 21, 2012; amended at 36 Ill. Reg. 10029, effective June 28, 2012; emergency amendment at 36 Ill. Reg. 11492, effective July 6, 2012, for a maximum of 150 days; emergency amendment at 36 Ill. Reg. 12895, effective July 24, 2012, for a maximum of 150 days.

SUBPART B: DUTIES OF LICENSEES

Section 1800.250 Duties of Licensed Video Terminal Operators**EMERGENCY**

In addition to all other duties and obligations required by the Act and this Part, each licensed terminal operator has an ongoing duty to comply with the following:

- a) Assume the primary responsibility for the operation and maintenance of video gaming terminals and for payment of tax remittance to the State as required by the Act;

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- b) Maintain and provide, either directly or through a licensed manufacturer, distributor, supplier or technician, an inventory of associated video gaming equipment to ensure the timely repair and continued, approved operation and play of the video gaming terminals it operates;
- c) Ensure the timely repair and continued, approved operation and play of the video gaming terminals it operates;
- d) Assume responsibility for the payment of valid receipt tickets issued by video gaming terminals it operates;
- e) Maintain at all times an approved method of payout for valid receipt tickets and pay all valid receipt tickets;
- f) Assume responsibility for terminal and associated video gaming equipment malfunctions, including any claim for the payment of credits arising from malfunctions;
- g) Promptly notify the Board of electronic or mechanical malfunctions or problems experienced in a terminal that affect the integrity of terminal play;
- h) Extend no form of deferred payment for video gaming terminal play in which an individual receives something of value now and agrees to repay the lender in the future for the purpose of wagering at a video gaming terminal;
- i) Maintain a ~~single~~separate bank account for ~~all~~each licensed video gaming ~~locations with which it contracts~~location for deposit of aggregate revenues generated from the play of video gaming terminals and allow for electronic fund transfers for tax payments;
- j) Enter into written use agreements with licensed video gaming locations that comply with the Act and this Part;
- k) Obtain and install, at no cost to the State and as required by the Board, all hardware, software and related accessories necessary to connect video gaming terminals to a central communications system;
- l) Offer or provide nothing of value to any licensed video gaming location or any agent or representative of any licensed video gaming location as an incentive or

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inducement to locate, keep or maintain video gaming terminals at the licensed video gaming location;

- m) Not own, manage or control a licensed establishment, licensed truck stop establishment, licensed fraternal establishment or licensed veterans establishment;
- n) Conduct advertising and promotional activities in accordance with this Part and in a manner that does not reflect adversely on or that would discredit or tend to discredit the Illinois gaming industry or the State of Illinois;
- o) Respond to service calls within a reasonable time from the time of notification by the video gaming location;
- p) Immediately remove all video gaming terminals from the restricted area of play:
 - 1) upon order of the Board or an agent of the Board, or
 - 2) that have been out of service or otherwise inoperable for more than 72 hours;
- q) Provide the Board with a current list of video gaming terminals acquired for use in Illinois; and
- r) Not install, remove or relocate any video gaming terminal without prior notification and approval of the Administrator or his designee.

(Source: Amended by emergency rulemaking at 36 Ill. Reg. 12895, effective July 24, 2012, for a maximum of 150 days)

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- 1) Heading of the Part: Certification
- 2) Code Citation: 23 Ill. Adm. Code 25
- 3) Section Number: 25.720 Emergency Action:
Amendment
- 4) Statutory Authority: 105 ILCS 5/Art. 21 and 21B
- 5) Effective Date of Rulemaking: July 24, 2012
- 6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire: This rule will be in force until replaced by regular rulemaking or until the end of the 150-day period, whichever occurs sooner.
- 7) Date Filed with the Index Department: July 24, 2012
- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: On June 21, 2012, the Illinois State Board of Education adopted a policy to allow candidates for entry into educator preparation programs and applicants for Illinois educator licenses to use a minimum composite score received on the ACT[®] or SAT[®] in lieu of passing the Illinois test of basic skills (i.e., Test of Academic Proficiency). In order to allow candidates and applicants currently applying for programs and licenses to choose this alternative method, the Board's policy must be placed in administrative rules.

This action is being treated as an emergency rulemaking since the public interest is best served by immediately implementing the new policy. Providing a second option for admission into educator preparation programs has the potential to benefit a large number of candidates, especially those who have been unable to pass a particular component, or subtest (i.e., reading, language arts, mathematics and writing), of Illinois' test of basic skills. Individuals who wish to begin their programs in the fall semester, but who have not yet been fully admitted due to a low score on one or more subtests, may opt to use their scores from the ACT[®] or SAT[®] instead. Otherwise, these individuals would have to wait 60 days before they could re-test and would not receive scores until after the start of the school year.

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Additionally, high school students entering postsecondary programs in the fall could use their ACT[®] score, if it is at or above the minimum, for admission to an educator preparation program rather than having to take the basic skills test at a cost of \$125. Students from Illinois public high schools have taken the ACT[®] test as part of the State assessment, so it is likely that no further testing would be needed.

Using the regular rulemaking process would result in the rule not becoming effective until after the start of the school term. Therefore, candidates would be prevented from entering educator preparation programs in a timely manner, which would delay program completion and increase student costs.

- 10) A Complete Description of the Subjects and Issues Involved: Section 21B-30 of the School Code requires that each candidate for entry into an educator preparation program or applicant for an educator license provide evidence of passing a test of basic skills. The Illinois State Board of Education identifies the test to be used to assess basic skills, as well as establishes the minimum scores a candidate or applicant must achieve in order to pass the test. In April, following a standard score-setting process, an outside panel recommended the cut scores to be used on the basic skills test, or Test of Academic Proficiency, and presented those scores to the State Educator Preparation and Licensure Board and the State Board of Education for their adoption.

This rulemaking responds to concerns expressed by representatives of institutions of higher education that a portion of candidates for educator preparation programs are unable to garner a passing score on all components (i.e., reading, language arts, mathematics and writing) of Illinois' test of basic skills, based on the new cut scores adopted by the State Board of Education. As a result, the Board supported an alternative method of showing competency in basic skills by accepting a score on either the ACT[®] or SAT[®] that is considered to be "college ready". The candidate or applicant may use only a composite score from an ACT[®] or SAT[®] test that included a writing component. As with the test of basic skills, no score on the ACT[®] or SAT[®] may be more than five years old at the time it is used for program admission or when applying for an educator license. The minimum score for either the ACT[®] or SAT[®] that will be accepted as "college ready" will be posted on the State Board's website by August 1, 2012, as well as by January 1 of any year in which the minimum composite score is modified.

- 11) Are there any proposed rulemakings pending on this Part? No
- 12) Statement of Statewide Policy Objectives: This rulemaking will not create or enlarge a State mandate.

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- 13) Information and questions regarding this emergency rulemaking shall be directed to:

Linda Tomlinson, Assistant Superintendent
Department of School Support Services for All Students
Illinois State Board of Education
100 North First Street, E-315
Springfield, Illinois 62777

217/782-4123

The full text of the Emergency Amendment begins on the next page:

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NOTICE OF EMERGENCY AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER b: PERSONNEL

PART 25

CERTIFICATION

SUBPART A: DEFINITIONS

Section

25.10 Accredited Institution

SUBPART B: CERTIFICATES

Section

25.11 New Certificates (February 15, 2000)
25.15 Standards for Certain Certificates (Repealed)
25.20 Requirements for the Elementary Certificate (Repealed)
25.22 Requirements for the Elementary Certificate (2004) (Repealed)
25.25 Requirements for "Full" Certification
25.30 Endorsement in Teacher Leadership (Through December 31, 2012)
25.32 Teacher Leader Endorsement (Beginning September 1, 2012)
25.35 Acquisition of Subsequent Certificates; Removal of Deficiencies (Repealed)
25.37 Acquisition of Subsequent Teaching Certificates (2004)
25.40 Requirements for the Special Certificate (Repealed)
25.42 Requirements for the Special Certificate (2004) (Repealed)
25.43 Standards for Certification of Special Education Teachers
25.45 Standards for the Initial Special Preschool-Age 12 Certificate – Speech and Language Impaired
25.46 Special Provisions for the Learning Behavior Specialist I Endorsement
25.47 Special Provisions for the Learning Behavior Specialist I Approval
25.48 Short-Term Emergency Certification in Special Education
25.50 General Certificate (Repealed)
25.60 State Special Certificate, Grades 11-12, For Teaching Elective Subjects (Repealed)
25.65 Alternative Certification
25.67 Alternative Route to Teacher Certification
25.70 Provisional Vocational Certificate
25.72 Temporary Provisional Vocational Certificate

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- 25.75 Part-time Provisional Certificates
- 25.80 Requirements for the Early Childhood Certificate (Repealed)
- 25.82 Requirements for the Early Childhood Certificate (2004) (Repealed)
- 25.85 Special Provisions for Endorsement in Foreign Language for Individuals Currently Certified
- 25.86 Special Provisions for Endorsement in Foreign Language for Individuals Prepared as Teachers But Not Currently Certified
- 25.90 Transitional Bilingual Certificate and Examination
- 25.92 Visiting International Teacher Certificate
- 25.95 Majors, Minors, and Separate Fields for the Illinois High School Certificate (Repealed)
- 25.99 Endorsing Teaching Certificates (Repealed)
- 25.100 Endorsing Teaching Certificates (2004)
- 25.105 Temporary Substitute Teaching Permit

SUBPART C: APPROVING PROGRAMS THAT PREPARE PROFESSIONAL EDUCATORS IN THE STATE OF ILLINOIS

Section

- 25.110 System of Approval: Levels of Approval (Repealed)
- 25.115 Recognition of Institutions and Educational Units, and Approval of Programs
- 25.120 Standards and Criteria for Institutional Recognition and Program Approval (Repealed)
- 25.125 Accreditation Review of the Educational Unit (Repealed)
- 25.127 Review of Individual Programs (Repealed)
- 25.130 Interventions by the State Board of Education and State Educator Preparation and Licensure Board
- 25.135 Interim Provisions for Continuing Accreditation and Approval – July 1, 2000, through Fall Visits of 2001 (Repealed)
- 25.136 Interim Provisions for Continuing Accreditation – Institutions Visited from Spring of 2002 through Spring of 2003 (Repealed)
- 25.137 Interim Provisions for Continuing Accreditation and Approval – July 1, 1999, through June 30, 2000 (Repealed)
- 25.140 Requirements for the Institution's Educational Unit Assessment Systems
- 25.142 Assessment Requirements for Individual Programs
- 25.145 Approval of New Programs Within Recognized Institutions
- 25.147 Approval of Programs for Foreign Language Beginning July 1, 2003
- 25.150 The Periodic Review Process (Repealed)
- 25.155 Procedures for the Initial Recognition of an Institution as an Educator Preparation Institution and Its Educational Unit

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- 25.160 Notification of Recommendations; Decisions by State Board of Education
25.165 Discontinuation of Programs

SUBPART D: SCHOOL SERVICE PERSONNEL

Section

- 25.200 Relationship Among Credentials in Subpart D
25.210 Requirements for the Certification of School Social Workers (Repealed)
25.215 Certification of School Social Workers (2004)
25.220 Requirements for the Certification of Guidance Personnel (Repealed)
25.225 Certification of School Counselors (2004)
25.227 Interim Certification of School Counselor Interns (2004)
25.230 Requirements for the Certification of School Psychologists (Repealed)
25.235 Certification of School Psychologists (2004)
25.240 Standard for School Nurse Endorsement (Repealed)
25.245 Certification of School Nurses (2004)
25.250 Standards for Non-Teaching Speech-Language Pathologists
25.252 Certification of Non-Teaching Speech-Language Pathologists
25.255 Interim Certification of Speech-Language Pathologist Interns
25.275 Renewal of the School Service Personnel Certificate

SUBPART E: REQUIREMENTS FOR THE CERTIFICATION OF
ADMINISTRATIVE AND SUPERVISORY STAFF

Section

- 25.300 Relationship Among Credentials in Subpart E
25.310 Definitions (Repealed)
25.311 Administrative Certificate (Repealed)
25.313 Alternative Route to Administrative Certification (Through August 31, 2013)
25.314 Alternative Route to Administrative Certification for Teacher Leaders
25.315 Renewal of Administrative Certificate
25.320 Application for Approval of Program (Repealed)
25.322 General Supervisory Endorsement (Repealed)
25.330 Standards and Guide for Approved Programs (Repealed)
25.333 General Administrative Endorsement (Repealed)
25.335 General Administrative Endorsement (Through June 30, 2014)
25.337 Principal Endorsement (2012)
25.338 Designation as Master Principal (Repealed)
25.344 Chief School Business Official Endorsement (Repealed)
25.345 Chief School Business Official (2004)

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- 25.355 Superintendent Endorsement (Repealed)
- 25.360 Superintendent (2004)
- 25.365 Director of Special Education

SUBPART F: GENERAL PROVISIONS

- Section
- 25.400 Registration of Certificates; Fees
- 25.405 Military Service
- 25.410 Revoked Certificates
- 25.415 Credit in Junior College (Repealed)
- 25.420 Psychology Accepted as Professional Education (Repealed)
- 25.425 Individuals Prepared in Out-of-State Institutions
- 25.427 One-Year Limitation
- 25.430 Institutional Approval (Repealed)
- 25.435 School Service Personnel Certificate – Waiver of Evaluations (Repealed)
- 25.437 Equivalency of General Education Requirements (Repealed)
- 25.440 Master of Arts NCATE (Repealed)
- 25.442 Illinois Teacher Corps Programs (Through August 31, 2013)
- 25.444 Illinois Teaching Excellence Program
- 25.445 College Credit for High School Mathematics and Language Courses (Repealed)
- 25.450 Lapsed Certificates
- 25.455 Substitute Certificates (Repealed)
- 25.460 Provisional Special and Provisional High School Certificates (Repealed)
- 25.464 Short-Term Authorization for Positions Otherwise Unfilled
- 25.465 Credit (Repealed)
- 25.470 Meaning of Experience on Administrative Certificates (Repealed)
- 25.475 Renewal Requirements for Holders of Multiple Types of Certificates
- 25.480 Credit for Certification Purposes (Repealed)
- 25.485 Certification of Persons with Certificates Previously Denied, Suspended, or Revoked
- 25.486 Certification of Persons Who Are Delinquent in the Payment of Child Support
- 25.487 Certification of Persons with Illinois Tax Noncompliance
- 25.488 Certification of Persons Named in Reports of Child Abuse or Neglect
- 25.489 Certification of Persons Who Are in Default on Student Loans
- 25.490 Certification of Persons Who Have Been Convicted of a Crime
- 25.493 Part-Time Teaching Interns (Repealed)
- 25.495 Approval of Out-of-State Institutions and Programs (Repealed)
- 25.497 Supervisory Endorsements

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SUBPART G: PARAPROFESSIONALS AND
OTHER NONCERTIFICATED PERSONNEL

Section

- 25.510 Paraprofessionals; Teacher Aides
- 25.520 Other Noncertificated Personnel (Repealed)
- 25.530 Specialized Instruction by Noncertificated Personnel (Repealed)
- 25.540 Approved Teacher Aide Programs (Repealed)
- 25.550 Approval of Educational Interpreters

SUBPART H: CLINICAL EXPERIENCES

Section

- 25.610 Definitions
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SUBPART I: ILLINOIS CERTIFICATION TESTING SYSTEM

Section

- 25.705 Purpose – Severability
- 25.710 Definitions
- 25.715 Test Validation
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- 25.720 Applicability of Testing Requirement and Scores
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- 25.725 Applicability of Scores (Repealed)
- 25.728 Use of Test Results by Institutions of Higher Education
- 25.730 Registration – Paper-and-Pencil Testing
- 25.731 Registration – Computer-Based Testing
- 25.732 Late Registration
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- 25.755 Cancellation of Scores; Voiding of Scores
- 25.760 Passing Score
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- 25.775 Institution Test Score Reports
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SUBPART J: RENEWAL OF STANDARD AND MASTER TEACHING CERTIFICATES

- Section
25.800 Professional Development Required
25.805 Continuing Professional Development Options
25.807 Additional Specifications Related to Professional Development Activities of
Special Education Teachers
25.810 State Priorities
25.815 Submission and Review of the Plan (Repealed)
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25.830 Application for Renewal of Certificate(s)
25.832 Validity and Renewal of Master Certificates
25.835 Review of and Recommendation Regarding Application for Renewal
25.840 Action by State Educator Preparation and Licensure Board; Appeals
25.845 Responsibilities of School Districts
25.848 General Responsibilities of LPDCs
25.850 General Responsibilities of Regional Superintendents
25.855 Approval of Illinois Providers
25.860 Out-of-State Providers
25.865 Awarding of Credit for Activities with Providers
25.870 Continuing Education Units (CEUs) (Repealed)
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Professional Development
25.875 Continuing Professional Development Units (CPDUs)
25.880 "Valid and Exempt" Certificates; Proportionate Reduction; Part-Time Teaching
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SUBPART K: REQUIREMENTS FOR RECEIPT OF
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25.900 Applicability of Requirements in this Subpart
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- Teaching Standards (NBPTS)
- 25.925 Requirements Related to Advanced Degrees and Related Coursework
 - 25.930 Requirements for Continuing Professional Development Units (CPDUs)
 - 25.935 Additional Activities for Which CPDUs May Be Earned
 - 25.940 Examination
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 - 25.945 Procedural Requirements
-
- 25.APPENDIX A Statistical Test Equating – Certification Testing System
 - 25.APPENDIX B Certificates Available Effective February 15, 2000
 - 25.APPENDIX C Exchange of Certificates
 - 25.APPENDIX D Criteria for Identification of Teachers as "Highly Qualified" in Various Circumstances
 - 25.APPENDIX E Endorsement Structure Beginning July 1, 2004

AUTHORITY: Implementing Articles 21 and 21B and Section 14C-8 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art. 21, Art. 21B, 14C-8, and 2-3.6].

SOURCE: Rules and Regulations to Govern the Certification of Teachers adopted September 15, 1977; amended at 4 Ill. Reg. 28, p. 336, effective July 16, 1982; amended at 7 Ill. Reg. 5429, effective April 11, 1983; codified at 8 Ill. Reg. 1441; amended at 9 Ill. Reg. 1046, effective January 16, 1985; amended at 10 Ill. Reg. 12578, effective July 8, 1986; amended at 10 Ill. Reg. 15044, effective August 28, 1986; amended at 11 Ill. Reg. 12670, effective July 15, 1987; amended at 12 Ill. Reg. 3709, effective February 1, 1988; amended at 12 Ill. Reg. 16022, effective September 23, 1988; amended at 14 Ill. Reg. 1243, effective January 8, 1990; amended at 14 Ill. Reg. 17936, effective October 18, 1990; amended at 15 Ill. Reg. 17048, effective November 13, 1991; amended at 16 Ill. Reg. 18789, effective November 23, 1992; amended at 19 Ill. Reg. 16826, effective December 11, 1995; amended at 21 Ill. Reg. 11536, effective August 1, 1997; emergency amendment at 22 Ill. Reg. 5097, effective February 27, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 11767, effective June 25, 1998; amended at 22 Ill. Reg. 19745, effective October 30, 1998; amended at 23 Ill. Reg. 2843, effective February 26, 1999; amended at 23 Ill. Reg. 7231, effective June 14, 1999; amended at 24 Ill. Reg. 7206, effective May 1, 2000; emergency amendments at 24 Ill. Reg. 9915, effective June 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12930, effective August 14, 2000; preemptory amendment at 24 Ill. Reg. 16109, effective October 12, 2000; preemptory amendment suspended at 25 Ill. Reg. 3718, effective February 21, 2001; preemptory amendment repealed by joint resolution of the General Assembly, effective May 31, 2001; emergency amendments at 25 Ill. Reg. 9360, effective July 1, 2001, for a maximum of 150 days; emergency expired November 27, 2001; emergency amendments at 25 Ill. Reg. 11935, effective August 31, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 16031, effective November 28, 2001; amended at 26 Ill.

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Reg. 348, effective January 1, 2002; amended at 26 Ill. Reg. 11867, effective July 19, 2002; amended at 26 Ill. Reg. 16167, effective October 21, 2002; amended at 27 Ill. Reg. 5744, effective March 21, 2003; amended at 27 Ill. Reg. 8071, effective April 28, 2003; emergency amendments at 27 Ill. Reg. 10482, effective June 26, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 12523, effective July 21, 2003; amended at 27 Ill. Reg. 16412, effective October 20, 2003; emergency amendment at 28 Ill. Reg. 2451, effective January 23, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 8556, effective June 1, 2004; emergency amendments at 28 Ill. Reg. 12438, effective August 20, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1212, effective January 4, 2005; amended at 29 Ill. Reg. 10068, effective June 30, 2005; amended at 29 Ill. Reg. 12374, effective July 28, 2005; emergency amendment at 29 Ill. Reg. 14547, effective September 16, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 15831, effective October 3, 2005; amended at 30 Ill. Reg. 1835, effective January 26, 2006; amended at 30 Ill. Reg. 2766, effective February 21, 2006; amended at 30 Ill. Reg. 8494, effective April 21, 2006; amended at 31 Ill. Reg. 10645, effective July 16, 2007; amended at 32 Ill. Reg. 3413, effective February 22, 2008; amended at 32 Ill. Reg. 13263, effective July 25, 2008; emergency amendment at 32 Ill. Reg. 18876, effective November 21, 2008, for a maximum of 150 days; amended at 33 Ill. Reg. 5462, effective March 24, 2009; amended at 34 Ill. Reg. 1582, effective January 12, 2010; amended at 34 Ill. Reg. 15357, effective September 21, 2010; amended at 35 Ill. Reg. 4315, effective February 23, 2011; peremptory amendment at 35 Ill. Reg. 14663, effective August 22, 2011; amended at 35 Ill. Reg. 16755, effective September 29, 2011; amended at 36 Ill. Reg. 2191, effective January 24, 2012; amended at 36 Ill. Reg. 12455, effective July 23, 2012; emergency amendment at 36 Ill. Reg. 12903, effective July 24, 2012, for a maximum of 150 days.

SUBPART I: ILLINOIS CERTIFICATION TESTING SYSTEM

Section 25.720 Applicability of Testing Requirement and Scores**EMERGENCY**

- a) It is the individual's responsibility to take the appropriate tests. Upon request, the State Board of Education shall assist individuals in identifying appropriate tests.
- b) Basic Skills Test (~~Test of Academic Proficiency~~)
Except as provided in subsections (b)(1) and (2) of this Section, each candidate seeking an Illinois certificate (teaching, administrative, or school service personnel) or license (professional educator license or educator license with stipulations), whether it is his or her first certificate or license or a subsequent certificate or license, shall be required to pass ~~the~~ test of basic skills authorized under Section 21B-30 of the School Code [105 ILCS 5/21B-30]. Further, Section

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21B-30(c) of the School Code requires passage of this test as a prerequisite to enrollment in an Illinois teacher preparation program.

- 1) A person who has passed the Illinois test of basic skills as a condition of admittance to an Illinois preparation program approved pursuant to Subpart C of this Part shall not be required to retake that test.
- 2) A person who has passed the Illinois test of basic skills ~~test~~ and has been issued an Illinois certificate or license on the basis of the test shall not be required to retake the basic skills test when seeking any subsequent endorsements or other educator licenses.
- 3) A person who has passed another state's test of basic skills as a condition of certification or admission to a teacher preparation program shall be required to take the Illinois basic skills test before receiving a certificate or license. (See Section 21B-35 of the School Code.)
- 4) The Illinois test of basic skills ~~test~~ will be administered as four separate subtests: reading comprehension, language arts, mathematics, and writing.
 - A) Individuals may take all four subtests or any combination of the individual subtests during a single test administration.
 - B) Scores on basic skills subtests can be "banked", and an individual will not be required to take a subtest again once he or she has achieved a passing score on that subtest.
 - C) Each test administration of the Illinois test of basic skills ~~test~~ in which an examinee participates shall count toward the testing limit established under subsection (i) of this Section, regardless of the number of subtests the examinee includes as part of that particular test administration.
- 5) In lieu of passing the Illinois test of basic skills, a candidate seeking admission to an Illinois educator preparation program or applicant for an educator license may submit for consideration his or her composite score from either the ACT[®] or the SAT[®] test.
 - A) The State Superintendent shall determine and post on the State Board's website no later than August 1, 2012 the minimum

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composite score on each test that will be accepted under this subsection (b)(5). Should either of the minimum scores be modified, the State Superintendent shall inform educator preparation programs no later than January 1 of the score to be used and shall modify the State Board's website accordingly.

- B) The candidate or applicant may apply to the State Board of Education for consideration of his or her ACT[®] or SAT[®] results, using a form provided by the State Superintendent of Education for this purpose. The candidate or applicant shall direct ACT[®] or the College Board to send an official score report of his or her composite score to the address provided on the application form.
- C) A composite score meeting the minimum shall be accepted only if the ACT[®] or the SAT[®] test that the candidate or applicant completed included a writing component or subtest for which a score is provided.
- D) ACT[®] or SAT[®] results are subject to the requirements of subsection (f) of this Section.
- E) ACT[®] or SAT[®] results are subject to the requirements of subsection (i) of this Section only to the extent that an individual who has failed the Illinois test of basic skills five times shall not rely upon achievement of the minimum composite score on the ACT[®] or SAT[®] to be admitted to the educator preparation program or to receive an educator license.

c) Content-Area Tests

- 1) Each candidate seeking an Illinois certificate or professional educator license, whether his or her first certificate or license or a subsequent certificate or license, shall be required to pass a content-area test for each endorsement area for which there is an applicable test (see Section 21B-30(d) of the School Code; also see Section 25.710 of this Part). Further, Section 21B-30(d) of the School Code requires passage of this test before a candidate begins student teaching or an internship or residency required for licensure, or begins serving as a teacher of record. No waivers or exemptions are available.

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- 2) A person who has passed a test of language proficiency, authorized under Section 21B-30 of the School Code, in order to qualify for a transitional bilingual certificate or an educator license with stipulations endorsed for transitional bilingual education, and received that certificate or license shall not be required to retake that test in order to qualify for a bilingual education credential on another certificate or professional educator license received later. A person who has passed a test of language proficiency as a condition of admission to an Illinois preparation program shall also not be required to retake that test.
- d) **Assessment of Professional Teaching (APT)**
In order to complete an educator preparation program, each candidate seeking his or her first Illinois early childhood, elementary, secondary, or special certificate or a license endorsed in a teaching field shall be required to pass the APT relevant to the certificate or endorsement sought (see Section 25.710 of this Part). A candidate seeking a subsequent teaching certificate or endorsement on a license of one of these types must also pass the APT relevant to the certificate or endorsement sought, unless he or she either:
- 1) has already passed an APT that encompasses the grade levels of the subsequent certificate or endorsement sought; or
 - 2) already holds another Illinois teaching certificate or a license endorsed in a teaching field that encompasses the grade levels of the certificate or endorsement sought.
- e) **Teacher Performance Assessment (TPA)**
Beginning September 1, 2015, each candidate completing a teacher preparation program shall be required to pass the TPA (see Section 21B-30(f) of the School Code).
- 1) Each recognized institution offering approved teacher preparation programs shall administer the TPA during a candidate's student teaching experience.
 - 2) No later than July 1, 2013, each recognized institution offering an approved teacher preparation program shall begin using the TPA with at least some of its students; however, before September 1, 2015, an institution shall not require passage of the TPA as a condition for program completion for students participating in any limited implementation

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required under this subsection (e)(2) unless the institution requires that all candidates pass the assessment.

- f) Except as provided in subsections (b)(1), (b)(2), (c)(2), and (d)(1) of this Section, for each person seeking an Illinois certificate or license, no passing score on a content area test or the APT may be more than five years old at the time application is made. [\(See Section 21B-30 of the School Code.\)](#) The five-year period shall be calculated from the date the test was taken to the date of receipt of the application by the State Board of Education. Scores more than five years old will not be accepted as part of an application.
- 1) The five-year period discussed in this subsection (f) shall apply to each score that forms part of an application received on or after July 1, 2012.
 - 2) The five-year period discussed in this subsection (f) shall also apply to each score that forms part of an application that is pending as of June 30, 2012, and to each score that forms part of an application for which an evaluation is still valid as of that date pursuant to Section 25.427 of this Part.
- g) Subject to registration in accordance with the provisions of this Subpart I, the provisions of Section 25.755(g)(1) of this Part, and the limitations of subsection (i) of this Section, an individual who has taken a paper-and-pencil test may retake that test during any subsequent, regularly scheduled administration of that test in paper-and-pencil format and may retake that test by computer during any subsequent computer-based test administration.
- h) Subject to registration in accordance with the provisions of this Subpart I, the provisions of Section 25.755(g)(1) of this Part, and the limitations of subsection (i) of this Section, an individual who has taken a computer-based test may retake that test by computer after no fewer than 60 days but also may retake that test during any subsequent, regularly scheduled administration of the test in paper-and-pencil format.
- i) Subsequent to January 12, 2010, no individual may attempt to pass the same test more than five times in any combination of the two formats (i.e., computer-based test or paper-and-pencil format). A score that is voided or cancelled under Section 25.755 of this Part shall be counted toward this five-time limit.

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NOTICE OF EMERGENCY AMENDMENT

(Source: Amended by emergency rulemaking at 36 Ill. Reg. 12903, effective July 24, 2012, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PUBLICATION ERROR

- 1) Heading of the Part: Practice in Administrative Hearings
- 2) Code Citation: 89 Ill. Adm. Code 104
- 3) Register citation of proposed or adopted rulemaking and other pertinent action: The Emergency Amendments being corrected appeared at 36 Ill. Reg. 10195, dated July 13, 2012.
- 4) Explanation: The information being corrected is as follows: In the Source Note for the Part and the Section Source Notes, the emergency amendments were stated as expiring at the end of 365 days instead of through June 30, 2013. JCAR regrets the error.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PUBLICATION ERROR

- 1) Heading of the Part: General Administrative Provisions
- 2) Code Citation: 89 Ill. Adm. Code 10
- 3) Register citation of proposed or adopted rulemaking and other pertinent action: The Emergency Amendments being corrected appeared at 36 Ill. Reg. 10421, dated July 13, 2012.
- 4) Explanation: The information being corrected is as follows: In the Source Note for the Part and the Section Source Notes, the emergency amendments were stated as expiring at the end of 150 days instead of through June 30, 2013. JCAR regrets the error.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PUBLICATION ERROR

- 1) Heading of the Part: General Assistance
- 2) Code Citation: 89 Ill. Adm. Code 114
- 3) Register citation of proposed or adopted rulemaking and other pertinent action: The Emergency Repealer being corrected appeared at 36 Ill. Reg. 10437, dated July 13, 2012.
- 4) Explanation: The information being corrected is as follows: In the Source Note for the Part, the emergency repealer was stated as expiring at the end of 150 days instead of through June 30, 2013. JCAR regrets the error.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PUBLICATION ERROR

- 1) Heading of the Part: Related Program Provisions
- 2) Code Citation: 89 Ill. Adm. Code 117
- 3) Register citation of proposed or adopted rulemaking and other pertinent action: The Emergency Amendments being corrected appeared at 36 Ill. Reg. 10503, dated July 13, 2012.
- 4) Explanation: The information being corrected is as follows: In the Source Note for the Part and the Section Source Notes, the emergency amendments were stated as expiring at the end of 150 days instead of through June 30, 2013. JCAR regrets the error.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PUBLICATION ERROR

- 1) Heading of the Part: Collections and Recoveries
- 2) Code Citation: 89 Ill. Adm. Code 165
- 3) Register citation of proposed or adopted rulemaking and other pertinent action: The Emergency Amendments being corrected appeared at 36 Ill. Reg. 10513, dated July 13, 2012.
- 4) Explanation: The information being corrected is as follows: In the Source Note for the Part and the Section Source Notes, the emergency amendments were stated as expiring at the end of 150 days instead of through June 30, 2013. JCAR regrets the error.

CHIEF PROCUREMENT OFFICER FOR CAPITAL DEVELOPMENT BOARD

NOTICE OF PUBLIC INFORMATION

NOTICE OF CAMPAIGN CONTRIBUTION VIOLATION OF PROCUREMENT CODE

1. Statutory Authority: Section 50-37 of the Illinois Procurement Code [30 ILCS 500/50-37] prohibits business entities with contracts and solicitations worth in excess of \$50,000 in combined annual value pending with a given officeholder responsible for awarding the contracts from making campaign contributions to campaign committees established to promote the candidacy of the officeholder or any other declared candidate for that office. The prohibition also extends to contributions made by various affiliated persons and businesses of a business entity that is subject to the prohibition. Section 50-37 requires that notice of violation of the prohibition and the penalty imposed is to be published in the Illinois Register.
2. Name of Contributor: Mr. Jim Miller, Owner, Holabird and Root, LLC.
3. Date of Violation: November 10, 2010
4. Description of Violation: Mr. Jim Miller, an affiliated person of the business entity Holabird and Root, LLC, made a contribution of \$1,000.00 to Brady for Senate, Inc., a campaign committee established to support the election of Bill Brady to public office. At the time of the contribution, Bill Brady was a declared candidate for the office of governor, and Holabird and Root, LLC had in place active contracts with the Capital Development Board, the total annual combined value of which was in excess of \$50,000.
5. Summary of Action Taken by the Agency: Section 50-37 provides that State contracts with a business entity that violate the campaign contribution prohibition are voidable at the discretion of the chief procurement officer. The Chief Procurement Officer for the Capital Development Board has notified Holabird and Root, LLC of the apparent violation, reviewed responsive material provided by Holabird and Root, LLC, and has considered the value, status, and necessity of the contracts. In addition, the CPO has taken into consideration the recognition by Holabird and Root, LLC of the violation and its understanding of the necessity to avoid such situations in the future. The CPO finds that voiding affected contracts, bids or proposals would not be in the best interest of the State.

As required by Section 50-37(e) of the Procurement Code, Brady for Senate, Inc., is required to pay to the State an amount equal to the value of the contribution within 30 days after the publication of this notice.

CHIEF PROCUREMENT OFFICER FOR CAPITAL DEVELOPMENT BOARD

NOTICE OF PUBLIC INFORMATION

NOTICE OF CAMPAIGN CONTRIBUTION VIOLATION OF PROCUREMENT CODE

1. Statutory Authority: Section 50-37 of the Illinois Procurement Code [30 ILCS 500/50-37] prohibits business entities with contracts and solicitations worth in excess of \$50,000 in combined annual value pending with a given officeholder responsible for awarding the contracts from making campaign contributions to campaign committees established to promote the candidacy of the officeholder or any other declared candidate for that office. The prohibition also extends to contributions made by various affiliated persons and businesses of a business entity that is subject to the prohibition. Section 50-37 requires that notice of violation of the prohibition and the penalty imposed is to be published in the Illinois Register.
2. Name of Contributor: Mr. Ferrell Winemiller, Jr., Owner, FW Electric, Inc.
3. Date of Violation: June 30, 2010.
4. Description of Violation: Mr. Ferrell Winemiller, Jr., an affiliated person of the business entity FW Electric, Inc., made a contribution of \$10,000.00 to Brady for Senate, Inc., a campaign committee established to support the election of Bill Brady to public office. At the time of the contribution, Bill Brady was a declared candidate for the office of governor, and FW Electric, Inc. had in place active contracts with the Capital Development Board, the total annual combined value of which was in excess of \$50,000.
5. Summary of Action Taken by the Agency: Section 50-37 provides that State contracts with a business entity that violate the campaign contribution prohibition are voidable at the discretion of the chief procurement officer. The Chief Procurement Officer for the Capital Development Board has notified Mr. Winemiller, Jr. of the apparent violation, reviewed responsive material provided by Mr. Winemiller, Jr., and has considered the value, status, and necessity of the contracts. In addition, the CPO has taken into consideration the recognition by Mr. Winemiller, Jr. of the violation and his understanding of the necessity to avoid such situations in the future. The CPO finds that voiding affected contracts, bids or proposals would not be in the best interest of the State.

As required by Section 50-37(e) of the Procurement Code, Brady for Senate, Inc., is required to pay to the State an amount equal to the value of the contribution within 30 days after the publication of this notice.

CHIEF PROCUREMENT OFFICER FOR CAPITAL DEVELOPMENT BOARD

NOTICE OF PUBLIC INFORMATION

NOTICE OF CAMPAIGN CONTRIBUTION VIOLATION OF PROCUREMENT CODE

1. Statutory Authority: Section 50-37 of the Illinois Procurement Code [30 ILCS 500/50-37] prohibits business entities with contracts and solicitations worth in excess of \$50,000 in combined annual value pending with a given officeholder responsible for awarding the contracts from making campaign contributions to campaign committees established to promote the candidacy of the officeholder or any other declared candidate for that office. The prohibition also extends to contributions made by various affiliated persons and businesses of a business entity that is subject to the prohibition. Section 50-37 requires that notice of violation of the prohibition and the penalty imposed is to be published in the Illinois Register.
2. Name of Contributor: Mr. Shane Murphy, Spouse of Marsia Geldert-Murphey, Owner, Kaskaskia Engineering Group, LLC.
3. Date of Violation: December 7, 2009
4. Description of Violation: Mr. Shane Murphy, an affiliated person of the business entity Kaskaskia Engineering Group, LLC, made a contribution of \$250.00 to Taxpayers for Quinn, a campaign committee established to support the election of Pat Quinn to public office. At the time of the contribution, Pat Quinn was a declared candidate for the office of governor, and Kaskaskia Engineering Group, LLC had in place active contracts with the Capital Development Board, the total annual combined value of which was in excess of \$50,000.
5. Summary of Action Taken by the Agency: Section 50-37 provides that State contracts with a business entity that violate the campaign contribution prohibition are voidable at the discretion of the chief procurement officer. The Chief Procurement Officer for the Capital Development Board has notified Kaskaskia Engineering Group, LLC of the apparent violation, reviewed responsive material provided by Kaskaskia Engineering Group, LLC, and has considered the value, status, and necessity of the contracts. In addition, the CPO has taken into consideration the recognition by Kaskaskia Engineering Group, LLC of the violation and its understanding of the necessity to avoid such situations in the future. The CPO finds that voiding affected contracts, bids or proposals would not be in the best interest of the State.

As required by Section 50-37(e) of the Procurement Code, Taxpayers for Quinn., is required to pay to the State an amount equal to the value of the contribution within 30 days after the publication of this notice.

DEPARTMENT OF LABOR

NOTICE OF PUBLIC INFORMATION

LIST OF CONTRACTOR(S) PROHIBITED FROM AN AWARD
OF A CONTRACT OR SUBCONTRACT
FOR PUBLIC WORKS PROJECTS

Pursuant to 820 ILCS 130/11a of the Prevailing Wage Act the Director of the Illinois Department of Labor gives notice that the following contractors and subcontractors have been found to have disregarded their obligations to employees under the Prevailing Wage Act on two separate occasions and that they, or any firm, corporation, partnership or association in which such contractors or subcontractors have an interest, are prohibited from being awarded any contract or subcontract for a public works project:

Dirt & Sod, Inc.
c/o Pat Brandonisio, President
964 Elizabeth Drive
Elgin, IL 60120
IDOL Case No.(s): 2008-PW-WJ02-0633 & 2010-PW-WJ09-0254
November 29, 2010, and continuing through November 29, 2012

B & T Services of Monee, Inc.
4922 W. Margaret Street
Monee, IL 60449
IDOL Case No.(s): 2007-PW-AP06-0839 & 2006-PW-RW06-0939
May 21, 2010 and continuing through May 20, 2014

American Brick Paving, Inc.
c/o John Biebrach, President
825 Seegers Road
Des Plaines, IL 60016
IDOL Case No.: 2010-PW-WJ11-0557
September 24, 2010 and continuing through September 23, 2014

Performance Paving, Ltd.
c/o Larry Kennebeck, President
520 Bonner Road
Wauconda, IL 60084
IDOL Case No.(s): 2008-PW-WJ01-0530 & 2010-PW-WJ08-0214
November 29, 2010 and continuing through November 29, 2014

DEPARTMENT OF LABOR

NOTICE OF PUBLIC INFORMATION

Dem/Ex Group, Inc.
c/o Daniel Saal
805 S. Adams Street
Manito, IL 61546
IDOL Case No.(s): 2008-PW-RW09-0186 & 2010-PW-RDW09-0351
July 29, 2011, and continuing through July 29, 2015

Gire Construction, Inc.
aka Gire Roofing
c/o Ed Gire
712 S. Neil Street
Champaign, IL 61820
IDOL Case No.(s): 2010-PW-JD08-0104 & 2011-PW-JD07-0009
December 16, 2011, and continuing through December 16, 2015

American Painting, Inc.
c/o Gary Bens
1820 S. Wallace, Unit 118
St. Charles, IL 60174
IDOL Case No.(s): 2010-PW-DA12-0578 & 2012-PW-DA09-0139
February 3, 2012, and continuing through February 3, 2016

City Cottage Group, Inc.
2907 South Wabash Avenue
Chicago, IL 60616
IDOL Case No.(s): 2008-PW-DA02-0631 & 2010-PW-DA08-0123
March 30, 2012, and continuing through March 30, 2016

Champion Environmental Services, Inc.
38 West End Drive
Gilberts, IL 60136
IDOL Case No.(s): 2009-PW-LL02-0743 & 2011-PW-RDW05-1039
June 1, 2012, and continuing through June 1, 2016

V & R Landscaping
c/o Vito Roppo
2000 W. Roosevelt Road
West Chicago, IL 60185

DEPARTMENT OF LABOR

NOTICE OF PUBLIC INFORMATION

IDOL Case No.(s): 2009-PW-AP09-0253 & 2011-PW-AP10-0317

"this debarment is effective until 4 years have elapsed from the date of publication of the list containing the name of the contractor".

Copies of the Prevailing Wage Act are available on the internet at <http://www.legis.state.il.us/ilcs/ch820/ch820act130.htm>, and at the:

Illinois Department of Labor
Conciliation and Mediation Division
900 S. Spring Street
Springfield, Illinois 62704

JOINT COMMITTEE ON ADMINISTRATIVE RULES
AUGUST AGENDA

SCHEDULED MEETING:

MICHAEL A. BILANDIC BUILDING
ROOM 600C
CHICAGO, ILLINOIS
AUGUST 14, 2012
11:00 A.M.

NOTICES: The scheduled date and time for the JCAR meeting are subject to change. Due to *Illinois Register* submittal deadlines, the agenda below may be incomplete. Other items not contained in this published agenda may be considered by the Committee at the meeting, and items from the list may be postponed to future meetings.

RULEMAKINGS CURRENTLY BEFORE JCAR

NOTICE: *It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:*

*Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706
Email: jcar@ilga.gov
Phone: 217/785-2254*

PROPOSED RULEMAKINGS

Commerce Commission

1. Public Availability of Inspection Information (83 Ill. Adm. Code 596)
 - First Notice Published: 35 Ill. Reg. 17168 – 10/28/11
 - Expiration of Second Notice: 9/2/12

2. Tariff Filings (83 Ill. Adm. Code 745)
 - First Notice Published: 35 Ill. Reg. 15753 – 10/7/11
 - Expiration of Second Notice: 9/5/12

JOINT COMMITTEE ON ADMINISTRATIVE RULES
AUGUST AGENDA

3. Telecommunications Access for Persons with Disabilities (83 Ill. Adm. Code 755)
 - First Notice Published: 35 Ill. Reg. 15764 – 10/7/11
 - Expiration of Second Notice: 9/6/12
4. Telecommunications Relay Services (83 Ill. Adm. Code 756)
 - First Notice Published: 35 Ill. Reg. 15793 – 10/7/11
 - Expiration of Second Notice: 9/6/12
5. Cost of Service (83 Ill. Adm. Code 791)
 - First Notice Published: 35 Ill. Reg. 15801 – 10/7/11
 - Expiration of Second Notice: 9/6/12
6. Competition Reporting (83 Ill. Adm. Code 793)
 - First Notice Published: 35 Ill. Reg. 15807 – 10/7/11
 - Expiration of Second Notice: 8/31/12

Environmental Protection Agency

7. Alternate Fuels Program (35 Ill. Adm. Code 275)
 - First Notice Published: 36 Ill. Reg. 441 – 1/13/12
 - Expiration of Second Notice: 8/21/12

Executive Ethics Commission

8. Organization, Information, Rulemaking and Hearings (2 Ill. Adm. Code 1620)
 - First Notice Published: 36 Ill. Reg. 2618 – 2/24/12
 - Expiration of Second Notice: 8/15/12

Financial and Professional Regulation

9. Currency Exchange Act (38 Ill. Adm. Code 120)
 - First Notice Published: 36 Ill. Reg. 3591 – 3/9/12
 - Expiration of Second Notice: 8/22/12
10. Boxing and Full-contact Martial Arts Act (68 Ill. Adm. Code 1370)
 - First Notice Published: 36 Ill. Reg. 4467 – 3/30/12
 - Expiration of Second Notice: 9/2/12
11. Professional Boxing and Martial Arts Contests (Repealer) (68 Ill. Adm. Code 1371)
 - First Notice Published: 36 Ill. Reg. 4571 – 3/30/12

JOINT COMMITTEE ON ADMINISTRATIVE RULES
AUGUST AGENDA

-Expiration of Second Notice: 9/2/12

12. Veterinary Medicine and Surgery Practice Act of 2004 (68 Ill. Adm. Code 1500)
 - First Notice Published: 36 Ill. Reg. 6178 – 4/27/12
 - Expiration of Second Notice: 8/30/12
13. Certified Veterinary Technicians (68 Ill. Adm. Code 1505)
 - First Notice Published: 36 Ill. Reg. 6188 – 4/27/12
 - Expiration of Second Notice: 8/30/12

Healthcare and Family Services

14. Specialized Health Care Delivery Systems (89 Ill. Adm. Code 146)
 - First Notice Published: 36 Ill. Reg. 6208 – 4/27/12
 - Expiration of Second Notice: 9/6/12

Human Services

15. Child Care (89 Ill. Adm. Code 50)
 - First Notice Published: 36 Ill. Reg. 4648 – 3/30/12
 - Expiration of Second Notice: 8/15/12
16. Temporary Assistance for Needy Families (89 Ill. Adm. Code 112)
 - First Notice Published: 36 Ill. Reg. 4658 – 3/30/12
 - Expiration of Second Notice: 8/15/12
17. Supplemental Nutrition Assistance Program (SNAP) (89 Ill. Adm. Code 121)
 - First Notice Published: 36 Ill. Reg. 4670 – 3/30/12
 - Expiration of Second Notice: 8/15/12

Lottery

18. Lottery (General) (11 Ill. Adm. Code 1770)
 - First Notice Published: 36 Ill. Reg. 8136 – 6/1/12
 - Expiration of Second Notice: 9/9/12

Natural Resources

19. Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, Beaver and Woodchuck (Groundhog) Trapping (17 Ill. Adm. Code 570)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
AUGUST AGENDA

- First Notice Published: 36 Ill. Reg. 8216 – 6/1/12
- Expiration of Second Notice: 9/8/12

20. Illinois Resident Armed Forces Fee Exemptions and Illinois Resident Veteran Fee Reductions (17 Ill. Adm. Code 2510)

- First Notice Published: 36 Ill. Reg. 8223 – 6/1/12
- Expiration of Second Notice: 9/8/12

21. Illinois Prescribed Burning Act (17 Ill. Adm. Code 1565)

- First Notice Published: 36 Ill. Reg. 6904 – 5/11/12
- Expiration of Second Notice: 8/15/12

Pollution Control Board

22. Clean Construction or Demolition Debris Fill Operations (35 Ill. Adm. Code 1100)

- First Notice Published: 36 Ill. Reg. 2801 – 2/24/12
- Expiration of Second Notice: 9/5/12

Public Health

23. Control of Tuberculosis Code (77 Ill. Adm. Code 696)

- First Notice Published: 36 Ill. Reg. 772 – 1/20/12
- Expiration of Second Notice: 9/8/12

Secretary of State

24. Department of Personnel (80 Ill. Adm. Code 420)

- First Notice Published: 36 Ill. Reg. 6998 – 5/11/12
- Expiration of Second Notice: 8/24/12

Transportation

25. School Bus Driver's Pretrip Inspection Requirements (92 Ill. Adm. Code 458)

- First Notice Published: 36 Ill. Reg. 8000 – 5/25/12
- Expiration of Second Notice: 9/5/12

EMERGENCY RULEMAKINGS

Central Management Services

JOINT COMMITTEE ON ADMINISTRATIVE RULES
AUGUST AGENDA

26. Pay Plan (80 Ill. Adm. Code 310)
-Notice Published: 36 Ill. Reg. 11222 – 7/20/12

Gaming Board

27. Video Gaming (General) (11 Ill. Adm. Code 1800)
-Notice Published: 36 Ill. Reg. 11492 – 7/20/12

Healthcare and Family Services

28. General Provisions (89 Ill. Adm. Code 101)
-Notice Published: 36 Ill. Reg. 10176 – 7/13/12
29. Application Process (89 Ill. Adm. Code 110)
-Notice Published: 36 Ill. Reg. 10219 – 7/13/12
30. Special Eligibility Groups (89 Ill. Adm. Code 118)
-Notice Published: 36 Ill. Reg. 10223 – 7/13/12
31. Children's Health Insurance Program (89 Ill. Adm. Code 125)
-Notice Published: 36 Ill. Reg. 10298 – 7/13/12
32. Illinois Cares Rx Program (Repealer) (89 Ill. Adm. Code 119)
-Notice Published: 36 Ill. Reg. 10229 – 7/13/12
33. Medical Assistance Programs (89 Ill. Adm. Code 120)
-Notice Published: 36 Ill. Reg. 10253 – 7/13/12
34. Medical Payment (89 Ill. Adm. Code 140)
-Notice Published: 36 Ill. Reg. 11329 – 7/20/12
35. Practice in Administrative Hearings (89 Ill. Adm. Code 104)
-Notice Published: 36 Ill. Reg. 10195 – 7/13/12
36. Hospital Services (89 Ill. Adm. Code 148)
-Notice Published: 36 Ill. Reg. 10326 – 7/13/12
37. Hospital Reimbursement Changes (89 Ill. Adm. Code 152)
-Notice Published: 36 Ill. Reg. 10410 – 7/13/12

JOINT COMMITTEE ON ADMINISTRATIVE RULES
AUGUST AGENDA

38. Long Term Care Reimbursement Changes (89 Ill. Adm. Code 153)
-Notice Published: 36 Ill. Reg. 10416 – 7/13/12

Human Services

39. General Administrative Provisions (89 Ill. Adm. Code 10)
-Notice Published: 36 Ill. Reg. 10421 – 7/13/12
40. General Administrative Provisions (89 Ill. Adm. Code 10)
-Notice Published: 36 Ill. Reg. 11486 – 7/20/12
41. General Assistance (Repealer) (89 Ill. Adm. Code 114)
-Notice Published: 36 Ill. Reg. 10437 – 7/13/12
42. Related Program Provisions (89 Ill. Adm. Code 117)
-Notice Published: 36 Ill. Reg. 10503 – 7/13/12
43. Collections and Recoveries (89 Ill. Adm. Code 165)
-Notice Published: 36 Ill. Reg. 10513 – 7/13/12

PEREMPTORY RULEMAKING

Central Management Services

44. Pay Plan (80 Ill. Adm. Code 310)
-Notice Published: 36 Ill. Reg. 10518 – 7/13/12

AGENCY RESPONSES

Public Health

45. Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300; 35 Ill. Reg. 9927)

Secretary of State

46. Department of Personnel (80 Ill. Adm. Code 420; 36 Ill. Reg. 3625)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of July 24, 2012 through July 30, 2012 and have been scheduled for review by the Committee at its August 14, 2012 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
9/6/12	<u>Department of Healthcare and Family Services, Specialized Health Care Delivery Systems (89 Ill. Adm. Code 146)</u>	4/27/12 36 Ill. Reg. 6208	8/14/12
9/6/12	<u>Illinois Commerce Commission, Telecommunications Access for Persons with Disabilities (83 Ill. Adm. Code 755)</u>	10/7/11 35 Ill. Reg. 15764	8/14/12
9/6/12	<u>Illinois Commerce Commission, Telecommunications Relay Services (83 Ill. Adm. Code 756)</u>	10/7/11 35 Ill. Reg. 15793	8/14/12
9/6/12	<u>Illinois Commerce Commission, Cost of Service (83 Ill. Adm. Code 791)</u>	10/7/11 35 Ill. Reg. 15801	8/14/12
9/8/12	<u>Department of Natural Resources, Muskrat, Min, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, Beaver and Woodchuck (Groundhog) Trapping (17 Ill. Adm. Code 570)</u>	6/1/12 36 Ill. Reg. 8216	8/14/12
9/8/12	<u>Department of Natural Resources, Illinois Resident Armed Forces Fee Exemptions and Illinois Resident Veteran Fee Reductions (17 Ill. Adm. Code 2510)</u>	6/1/12 36 Ill. Reg. 8223	8/14/12

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

9/8/12	<u>Department of Public Health</u> , Control of Tuberculosis Code (77 Ill. Adm. Code 696)	1/20/12 36 Ill. Reg. 772	8/14/12
9/9/12	<u>Department of the Lottery</u> , Lottery (General) (11 Ill. Adm. Code 1770)	6/1/12 36 Ill. Reg. 8136	8/14/12

PROCLAMATIONS

2012-234**Special Session Proclamation**

WHEREAS, on January 10, 2011, I took the Constitutional oath of office to become Governor of the State of Illinois, solemnly swearing to uphold both the Illinois Constitution and the Constitution of the United States, and promising to "faithfully discharge the duties of the office of Governor to the best of my abilities"; and

WHEREAS, I am committed to fulfilling my oath of office to serve the people of the State of Illinois by ensuring that government operates responsibly, and restoring fiscal stability to the State; and

WHEREAS, the State is currently facing an unprecedented pension crisis that, unchecked, compromises the State's credit rating and threatens the continued delivery of vital programs and services including education, public safety and human services; and

WHEREAS, the current unfunded pension liability of more than \$83 billion is unsustainable and costs taxpayers millions of dollars every day it goes unaddressed; and

WHEREAS, the State's fiscal year 2013 budget is \$33.7 billion, approximately 15 percent of which will go toward pensions alone; and

WHEREAS, on April 20, 2012, I proposed a Public Pension Stabilization Plan that would have eliminated the unfunded liability to secure 100 percent actuarial funding of the pension systems by 2042; and

WHEREAS, I have continued work with the leaders of all four legislative caucuses to introduce legislation that would eliminate the State's unfunded pension liability; stabilize and strengthen the pension system and ensure that the public employees who have faithfully contributed to the system receive benefits; and

WHEREAS, it is in the best interest of Illinois taxpayers that measures to strengthen and reform the State's pension systems be adopted and implemented without further delay; and

WHEREAS, Article IV, Section 5(b) of the Illinois Constitution empowers the Governor, as Chief Executive, to convene special session of the General Assembly;

THEREFORE, pursuant to Article IV, Section 5(b) of the Illinois Constitution of 1970, I, Governor Pat Quinn, hereby call and convene the 97th General Assembly in a special session to commence on August 17, 2012, at 1:00 p.m., for the purpose of considering any legislation, new or pending, which addresses pension reform.

PROCLAMATIONS

Dated: July 30, 2012
Filed: July 30, 2012

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 36, Issue 32 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

23 - 1085	12666
11 - 1800	12699
44 - 1120	12702

ADOPTED RULES

80 - 305	7/25/2012	12811
11 - 603	8/1/2012	12815
11 - 1424	8/1/2012	12824
23 - 51	7/25/2012	12829
23 - 226	7/24/2012	12870

EMERGENCY RULES

11 - 1800	7/24/2012	12895
23 - 25	7/24/2012	12903

**EXECUTIVE ORDERS AND
PROCLAMATIONS**

12 - 234	7/30/2012	12938
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